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Vol. I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 90

FRANK L. SMITH, CICERO J. LINDLY, HAL W. TROVILLION, ET AL., ETC., ET AL., APPELLANTS,

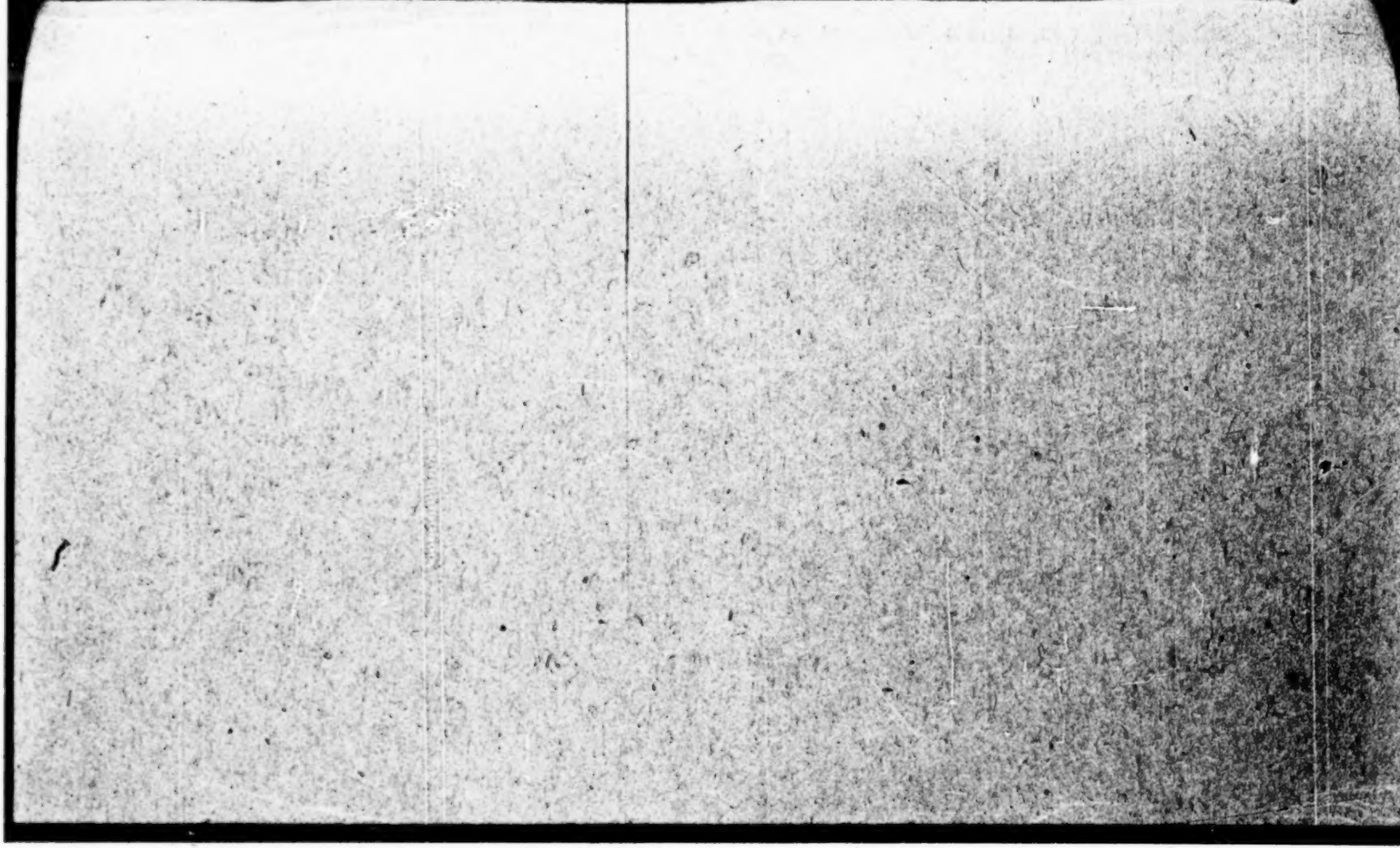
vs.

ILLINOIS BELL TELEPHONE COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

FILED APRIL 25, 1930

(34,976)



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INDEX

	Page
Record from district court of the United States, Northern Illinois...	1
Caption	1
Bill of complaint	2
Exhibit A—Citation	10
Exhibit B—Answer to citation	11
Exhibit C—Final order	14
Exhibit D—Petition for rehearing	47
Petition of intervention, City of Chicago	48
Temporary restraining order	49
Answer of City of Chicago	51
Exhibit A—Illinois commerce commission law and warehouse act	62
Exhibit B—Petition for rehearing by the City of Chicago..	150
Exhibit "89"—Order	153
Answer of Frank L. Smith et al	155
Motion for interlocutory injunction	163
Interlocutory decree	163
Order substituting party defendants	165

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Page

Order allowing appeal 167
Mandate, supreme court 167
Order to preserve records 170
Motion for judgment on the pleadings 171
Memorandum on motion for judgment on pleadings 173
Opinion, January 31, 1930 178
Final decree 199
Plaintiff's motion for findings of fact 200
Petition for appeal 202
Assignments of error 203
Order allowing appeal 212
Order extending time 213
Order incorporating testimony and exhibits in record 213
Stipulation for transcript of record 214
Statement of evidence 217
Commission's Exhibit 1—Fixed capital investment, 1911-1925 223
Commission's Exhibit 2—Comparison of fixed capital investment per station in service, 1921-1925 224
Commission's Exhibit 3—Investment in central office telephone equipment per station in service, divided according to types of central office equipment, 1917-1925 225
Commission's Exhibt 4—Computation of fair rate base, December 31, 1922, and June 30, 1923 226
Commission's Exhibit 5—Computation of average rate base, years 1922 and 1923 227
Commission's Exhibit 6—Computation of average rate base, years 1924 and 1925 228
Commission's Exhibit 7—Summary of depreciation reserve, 1911 to 1925, inclusive 229
Commission's Exhibit 8—Account 103, reserve for amortization of intangible capital, 1915 to 1925, inclusive 230
Commission's Exhibit 9—Statement illustrating (by the use of one item of plant costing $10,000 and having a life of 10 years, the result of (A) recording accrued depreciation annually on the straight-line basis and (B) deducting this recorded depreciation loss (the depreciation reserve) in arriving at the rate base for each succeeding year) 231
Commission's Exhibit 11—Maintenance and depreciation expenses expressed as a percentage of plant and equipment, 1911 to 1925, inclusive 233
Commission's Exhibit 12—Maintenance and depreciation of station apparatus, 1916 to 1925 234
Commission's Exhibit 13—Determination of average life (central office equipment) based on each year's operations by use of formula (all factors are on a 1911 cost level basis), 1911 to 1923 235
Commission's Exhibit 13-A—Theoretical computation showing the results of applying two formulæ used by the Illinois Bell Telephone Company in determining life of various classes of property 236

Page

Commission's Exhibit 14—Statement showing variations in the service life of the different classes of telephone property 238
Commission's Exhibit 15—Annual depreciation and amortization rates, straight-line method..... 240
Commission's Exhibit 16—Income account, 1922 and 1923 (based on the assumption that the Illinois commerce commission order of August 16, 1923, was effective January 1, 1922)..... 244
Commission's Exhibit 17—Income account, 1924 and 1925 (based on Illinois commerce commission order effective October 1, 1923)..... 246
Commission's Exhibit 18—Rate of return on original cost, 1922 and 1923 (based on the assumption that the Illinois commerce commission order of August 16, 1923, was effective as of January 1, 1922)..... 248
Commission's Exhibit 19—Rate of return on original cost, 1924 and 1925 (based on Illinois commerce commission order effective October 1, 1923)..... 249
Commission's Exhibit 20—Comparison of operating revenues, four years, January 1, 1922, to December 31, 1925... 250
Commission's Exhibit 21—Comparison of operating expenses, four years, January 1, 1922, to December 31, 1925. 251
Commission's Exhibit 22—Telephone stations in service, 1922 to 1925..... 253
Commission's Exhibit 23—Table 106, public finance, interest rates, and bond yields..... 254
Commission's Exhibit 24—Table 108, stock price indexes by groups and yields..... 255
Commission's Exhibit 26—Comparison of the cost of operating manual and machine switching (dial) equipment, 1924 to 1928..... 257
Commission's Exhibit 27—Report and order of I. C. C..... 259
Commission's Exhibit 28—Specific estimate No. 19213..... 387
Commission's Exhibit 29—Specific estimate No. 25116..... 405
Commission's Exhibit 30—Specific estimate No. 25168..... 410
Commission's Exhibit 31—Summary of materials purchased from the Western Electric Company and charged to account 7-R, "repairs to central office telephone equipment" during the month of October, 1921..... 416
Commission's Exhibit 31-A—Summary of materials removed from plant returned to the Western Electric Company and credited to account 7-R, "repairs to central office telephone equipment" during the month of October, 1921..... 417
Commission's Exhibit 32—Summary of materials purchased from the Western Electric Company and charged to account 18-R, "repairs to station apparatus" during the month of October, 1921..... 417
Commission's Exhibit 32-A—Summary of materials removed from plant returned to the Western Electric Company and

Page

credited to account 18-R, "repairs to station apparatus" during the month of October, 1921 418
Commission's Exhibit 33—Analysis of miscellaneous item of $22,845.72 included in the charges to account 18-R, "repairing of station apparatus" 418
Commission's Exhibit 34—Summary of materials purchased from the Wester.. Electric Company and charged to account 58-R, "repairs to private branch exchanges" during the month of October, 1921 419
Commission's Exhibit 34-A—Summary of materials removed from plant returned to Western Electric Company and credited to account 58-R, "repairs to private branch exchanges" during the month of October, 1921 419
Commission's Exhibit 35—Maintenance and depreciation expenses aad gross additions and retirements of fixed capital, 1923 420
Commission's Exhibit 36—Summary of depreciation reserve for years 1911 to 1925, inclusive, with adjustments in years 1921 to 1925, based on public utilities commission's allowance for expense of depreciation (account 608) of $2,000,000 plus 4 per cent on net additions 420
Commission's Exhibit 37—Extract from 24th Annual Report of the Interstate Commerce Commission, December 21, 1910 421
Commission's Exhibit 38—Extract from 30th Annual Report of the Interstate Commerce Commission, December 1, 1916 421
Commission's Exhibit 39—Extract from 33d Annual Report of the Interstate Commerce Commission, December 1, 1919 422
Commission's Exhibit 40—Extract from 35th Annual Report of the Interstate Commerce Commission, December 1, 1921 422
Intervenor's exhibits excluded by order of court 423
Opening statement, Mr. Bangs 597
Opening statement, Mr. Haight 603
Stipulation re certain facts 620
Exhibit "A"—Inspection and valuation of Chicago buildings 621
Exhibit "B"—Affidavit of Edward A. Renwick 635
Testimony of William F. Sloan 637
John R. Turner 680
S. A. Rhodes 699
William F. Sloan (recalled) 709
U. F. Cleveland 748
William F. Sloan (recalled) 757
U. F. Cleveland (recalled) 761
Statement of Mr. Bangs on interstate separation 815
Statement of Mr. Goldstein on interstate separation 820

	Page
Testimony of Andrew Sangster	823
H. A. Harris	828
U. F. Cleveland (recalled)	832
Andrew Sangster (recalled)	846
U. F. Cleveland (recalled)	848
H. A. Harris (recalled)	850
U. F. Cleveland (recalled)	853
Allan B. Crunden	869
Statement of Mr. Bangs on expense depreciation	880
Testimony of F. O. Hale	884
William F. Sloan (recalled)	924
William J. Hagenah	941
John R. Turner (recalled)	953
Frederick L. Rhodes	970
Frank Redmund	1034
F. O. Hale (recalled)	1057
Edward V. Cox	1076
Andrew Sangster (recalled)	1136
U. F. Cleveland (recalled)	1144
Ben B. Boynton	1147
Motion to strike exhibits	1149
Testimony of William F. Sloan (recalled)	1152
Plaintiff's Exhibit 1—Portions of Mr. Sloan's appraisal of June 30, 1923	1155
Plaintiff's Exhibit 2—Mr. Rhodes' per cent condition by accounts	1182
Plaintiff's Exhibit 3—Portions of uniform system of accounts of interstate C. C.	1183
Plaintiff's Exhibit 4—Statement of book cost, revenues, expenses, and amount reserved for refunds, with computation of return	1193
Plaintiff's Exhibit 5—Income statement, actual first 7 months of 1923, computed on an annual basis and actual 1923	1194
Plaintiff's Exhibit 6—Comparison of commission's allowance for maintenance and depreciation with company's books	1195
Plaintiff's Exhibit 7—License contract with amendments to December 31, 1928	1196
Plaintiff's Exhibit 8—Chicago exchange rate schedule and statement of changes	1218
Plaintiff's Exhibit 9—Authorization estimate No. C21135	1225
Plaintiff's Exhibit 10—Final completion report, estimate No. 21135	1240
Plaintiff's Exhibit 11—Authorization estimate No. C23018	1247
Plaintiff's Exhibit 12—Final completion report, estimate No. 23018	1255
Plaintiff's Exhibit 13—Portion of plaintiff's schedule of toll rates on file with Illinois commerce commission	1271

Page

Plaintiff's Exhibit 14—Revenues and expenses of Chicago exchange separated between interstate and intrastate.... 1274
Plaintiff's Exhibit 15—Computation of approximate return on plant used for long distance lines service..... 1275
Plaintiff's Exhibit 16—List of bonds and notes of public utility companies sold in 1923 showing yield..... 1276
Plaintiff's Exhibit 17—Public utility bond and note offerings in 1923 distributed by yields..... 1278
Plaintiff's Exhibit 18—Interstate Commerce Commission's order of March 18, 1920..... 1279
Plaintiff's Exhibit 19—Depreciation rates by classes of plant, effective January 1, 1921..... 1280
Plaintiff's Exhibit 20—Final order of public utilities commission of Illinois applying to Chicago rates, dated December 20, 1920..... 1281
Plaintiff's Exhibit 21—Statement of commission's allowance for maintenance and retirement compared with actual depreciation charges..... 1327
Plaintiff's Exhibit 22—Basis of settlements for tolls between operating divisions of Illinois Bell, settlements with associated companies, and settlements with connecting companies 1328
Plaintiff's Exhibit 23—Comparative statement of Illinois Bell Company's commission figured on A. T. & T. Co. business originated at Chicago for June 16 and 19, 1922..... 1348
Plaintiff's Exhibit 24—Total Illinois Bell receipts from long lines toll in Chicago compared to total toll receipts for sent paid and sent collect messages..... 1349
Plaintiff's Exhibit 25—Comparison of commission's allowance for maintenance and retirement with actual charges and percentage of average plant and equipment in service. 1350
Plaintiff's Exhibit 26—Commission's order of December 14, 1920, approving traffic agreement..... 1351
Plaintiff's Exhibit 27—Standard traffic agreement..... 1364
Plaintiff's Exhibit 28—Standard supplemental traffic agreement 1372
Plaintiff's Exhibit 29—Illinois Bell Company's acceptance of traffic agreements of Central Union Telephone Company.. 1375
Plaintiff's Exhibit 30—Theo. N. Vail's letter to B. E. Sunny, dated September 5, 1912..... 1377
Plaintiff's Exhibit 31—Comparison of material cost levels, typical outside plant accounts, Indiana Bell and New York City..... 1378
Plaintiff's Exhibit 32—Comparison of material cost levels, central office telephone equipment, Indiana Bell and New York City..... 1379
Plaintiff's Exhibit 33—Comparison of labor cost levels, typical outside plant accounts, Indiana Bell, New York City, and Indiana commission..... 1381
Plaintiff's Exhibit 34—Comparison of labor cost levels, In-

Page

diana Bell, and arithmetical average of other representative companies..... 1383
Plaintiff's Exhibit 35—Comparison of construction cost levels, typical outside plant accounts, New York City and Indiana Bell..... 1383
Plaintiff's Exhibit 36—Comparison of increase since 1914 in general commodity prices, selling prices of telephone apparatus to associated companies and telephone construction costs, follows..... 1336
Plaintiff's Exhibit 37—Manhattan and Bronx, weighted average cost of outside plant, follows..... 1386
Plaintiff's Exhibit 39—Depreciation study of Indiana Bell Telephone Company made by J. G. Wray & Co..... 1387
Plaintiff's Exhibit 40—Computation of normal depreciation reserve ratio as prepared by City Witness Hill..... 1423
Plaintiff's Exhibit 41—Hill's working paper in connection with size of depreciation reserve..... 1424
Plaintiff's Exhibit 42—Plant accounts classified on basis of Byllesby-Arnold appraisal of July 31, 1911..... 1425
Plaintiff's Exhibit 43—Percentage of increase of Sloan's appraisal over books (1) including $5,000,000 overheads in book figures and (2) including 12% overheads in book figures..... 1426
Plaintiff's Exhibit 44—Cost trend of composite plant excluding land and buildings, follows..... 1426
Plaintiff's Exhibit 44-A—Cost trend of composite plant excluding land and buildings, Turner index and Sloan index, follows..... 1426
Plaintiff's Exhibit 44-B—Comparison of cost index numbers for telephone property, Illinois Bell (Sloan) and Indiana Bell, follows..... 1426
Plaintiff's Exhibit 44-C—Comparison of construction cost levels, composite of exchange pole lines, exchange aerial cable, exchange aerial wire, and exchange underground cable, Illinois Bell and J. G. Wray, follows..... 1426
Plaintiff's Exhibit 44-D—Comparison of labor cost levels, composite of exchange pole lines, exchange aerial cable, exchange aerial wire, and exchange underground cable, Illinois Bell and J. G. Wray, follows..... 1426
Plaintiff's Exhibit 44-E—Comparison of central office telephone equipment cost levels, Illinois Bell, J. G. Wray, Indiana Bell, and J. G. Wray, New York, follows..... 1426
Plaintiff's Exhibit 44-F—Comparison of cost index numbers for telephone property, Illinois Bell (Sloan) and Indiana Bell, follows..... 1426
Plaintiff's Exhibit 45—Manhattan and Bronx, weighted average cost of outside plant as prepared by City Witness Wray, follows..... 1426
Plaintiff's Exhibit 46—Commission's order approving purchase of Central Union property by plaintiff..... 1427

Page

Plaintiff's Exhibit 47—Depreciation allowances found by Illinois commission for independent telephone companies between June 30, 1923, and April 1, 1929 (list of cases).. 1438
Abstract of orders listed in Exhibit 47:
47-A 1502
47-B 1507
(Portions of certain orders listed in Exhibit 47):
47-C 1514
47-D 1520
47-E 1524
Plaintiff's Exhibit 48—Statement showing result of recording accrued depreciation annual on straight-line basis in a growing plant..... 1528
Commission's orders approving purchase of Illinois Bell stock by A. T. & T. Co.:
49-A 1530
49-B 1532
49-C 1534
49-D 1536
49-E 1538
49-F 1540
49-G 1542
49-I 1544
49-J 1546
Plaintiff's Exhibit 50—Comparative table showing effect of weighting increase factors..... 1548
Plaintiff's Exhibit 51—Percentage of work done under routine and specific estimates in Chicago exchange..... 1549
Plaintiff's Exhibit 52—Map showing construction in Rogers Park, follows..... 1550
Plaintiff's Exhibit 53—Organization chart of general staff of A. T. & T. Co., June 6, 1929, follows..... 1550
Plaintiff's Exhibit 54—Organization charts of department of operation and engineering of A. T. & T. Co., April 1, 1929, follows 1550
Plaintiff's Exhibit 55—Organization charts of department of development and research, December 1, 1928 (A. T. & T. Co.), follows..... 1550
Plaintiff's Exhibit 56—Tabular view of license contract services, follows..... 1550
Plaintiff's Exhibit 56-A—Tabular view of license contract services (for January 1, 1925), follows..... 1550
Plaintiff's Exhibit 57—Photograph of loading coils 602 and 612, follows..... 1550
Plaintiff's Exhibit 58—Photograph of loading coils 574 and 601, follows..... 1550
Plaintiff's Exhibit 59—Principal stages in development of paper-insulated cable used in Bell System, follows..... 1550
Plaintiff's Exhibit 60—Cost of a mile of circuit in full-size cable, savings to associated companies from continuous

Page

development work on paper-insulated cable directed by the general staff, follows..... 1550
Plaintiff's Exhibit 61—J. G. Wray's letter to J. J. Carty, dated November 11, 1907..... 1551
Plaintiff's Exhibit 62—A. S. Hibbard's letter to J. J. Carty, dated March 30, 1908..... 1553
Plaintiff's Exhibit 63—J. J. Carty's letter to J. G. Wray, dated November 15, 1907..... 1555
Plaintiff's Exhibit 64—Business relationships of Western Electric Co., December 31, 1928, follows..... 1556
Plaintiff's Exhibit 65—Comparative prices for comparable apparatus manufactured by Western Electric and competing manufacturers, follows..... 1556
Plaintiff's Exhibit 66—Comparison of sales of telephone apparatus by Graybar Electric Co. and same sales on basis of W. E. standard supply contract with the associated companies, follows..... 1556
Plaintiff's Exhibit 67—Comparison of sales of lead covered cable by Graybar Electric Co. and same sales on basis of W. E. standard supply contract with the associated companies, follows..... 1556
Plaintiff's Exhibit 68—Study of cost of telephone supplies, Illinois Bell (1921)..... 1557
Plaintiff's Exhibit 69—Study of cost of telephone supplies, Tri-State Telephone and Telegraph Co., St. Paul, Minn., 1926..... 1562
Plaintiff's Exhibit 70—Comparison between actual cost of telephone apparatus and lead covered cable to independent companies and W. E. prices for similar material under standard supply contract..... 1566
Plaintiff's Exhibit 71—Trends of market quotations of copper and lead, and trend of prices of lead covered cable, follows..... 1566
Plaintiff's Exhibit 73—Organization chart of Illinois Bell Co., July 1, 1928, follows..... 1566
Plaintiff's Exhibit 74—Organization chart of Illinois Bell Co., July 1, 1923, follows..... 1566
Plaintiff's Exhibit 75—W. S. Gifford's letter to First Trust and Savings Bank, giving consent to pledge of license contract (6/1/23)..... 1567
Plaintiff's Exhibit 76—N. W. Harris' letter to B. E. Sunny, dated January 11, 1911, re value of 4½% contract..... 1569
Plaintiff's Exhibit 77—Division between plaintiff and A. T. & T. of long lines receipts for year 1923 and calls originating in Chicago..... 1571
Plaintiff's Exhibit 78—Advances made by A. T. & T. Co. and associated and subsidiary companies to Chicago and Illinois Bell companies for years 1926, 1927, and 1928 (continuing City Exhibit 42)..... 1572
Plaintiff's Exhibit 79—Commission's order approving $50,000,000 bond issue, June 13, 1923..... 1576

Page

Plaintiff's Exhibit 80—N. T. Guernsey's letter to E. S. Wilson regarding redraft of license contract, dated June 14, 1917 1585
Testimony of Bernard Edward Sunny 1588
Testimony of U. F. Cleveland (recalled) 1605
Offers in evidence 1614
Testimony of William H. Crumb 1622
G. W. Cummings 1627
Cyrus G. Hill 1670
J. G. Wray 1710
Harry G. Wesphaln 1776
W. H. Crumb (recalled) 1777
K. E. Tholin 1790
Charles A. Heiss 1807
K. E. Tholin 1835
Stipulation re evidence 1859
Testimony of Frank Redmund (recalled) 1861
Stipulations re evidence 1862
Testimony of K. E. Tholin (recalled) 1865
Testimony of G. W. Cummings (recalled) 1866
City's Exhibit 2—Table of overhead expenses of Illinois Bell Telephone Company, 1911-1922 1873
City's Exhibit 3—Summary cost of reproducing business of Illinois Bell Telephone Company 1874
City's Exhibit 4—Table, "plant and equipment," January 1, 1923, June 30, 1923, December 31, 1923, Illinois Bell Telephone Company 1875
City's Exhibit 5—Table, operating revenues, 1923, Illinois Bell Telephone Company 1876
City's Exhibit 6—Table, operating expenses, 1923, Illinois Bell Telephone Company 1877
City's Exhibit 7—Income statement, 1923, Illinois Bell Telephone Company 1879
City's Exhibit 13—Table of working assets and liabilities of Illinois Bell Telephone Company for 1921, 1922, and 1923 1880
City's Exhibit 15—Letter, dated September 19, 1913, by Sunny to Kingsbury 1881
City's Exhibit 16—Letter, dated May 10, 1911, Sunny to Thayer 1882
City's Exhibit 17—Letter, dated February 14, 1911, Thayer to Chicago Telephone Company 1883
City's Exhibit 18—Table showing "annual charge percentages applicable to long lines plant in Chicago," Illinois Bell Telephone Company 1884
City's Exhibit 19—Table showing "present annual charge percentages applicable to long lines plant in Chicago," Illinois Bell Telephone Company, effective January 1, 1920 1885
City's Exhibit 20—Table showing "comparison of composite depreciation rates for the entire exchange area, etc.," Illinois Bell Telephone Company 1886

Page

City's Exhibit 22—Contract of November 10, 1879, between Western Union Telegraph Company for itself and others, with National Bell Telephone Company..... 1887

City's Exhibit 23—Contract of December, 1881, between American Bell Telephone Company and Chicago Telephone Company..... 1925

City's Exhibit 24—Contract of July 1, 1891, between American Telephone and Telegraph Company and Chicago Telephone Company..... 1934

City's Exhibit 25—Letter of January 7, 1896, from American Telephone & Telegraph Company to Chicago Telephone Company, subject, arbitrary terminal commission..... 1938

City's Exhibit 26—Letter of January 1, 1896, from Chicago Telephone Co. to American Telephone & Telegraph Company, subject, arbitrary amount as toll commission on long distance business..... 1939

City's Exhibit 27—Letter of June 14, 1899, American Telephone & Telegraph Company, subject, simplifying accounts..... 1940

City's Exhibit 27-A—Calculation referred to in letter of City's Exhibit 27..... 1940

City's Exhibit 28—Letter of June 21, 1899, American Telephone & Telegraph Company, subject, simplifying accounts..... 1941

City's Exhibit 29—Letter of May 11, 1909, from American Telephone & Telegraph Company..... 1941

City's Exhibit 30—Letter of May 13, 1909, from Chicago Telephone Company to American Telephone & Telegraph Company..... 1942

City's Exhibit 31—Letter of February 14, 1911, American Telephone & Telegraph Company to Chicago Telephone Company..... 1943

City's Exhibit 31-A—Date and book cost of toll plant in Chicago purchased by Illinois Bell from American Telephone & Telegraph Company..... 1944

City's Exhibit 31-B—Resolution of board of directors of the Illinois Bell Telephone Company, February 21, 1911..... 1944

City's Exhibit 31-C—Arrangements re long distance service. 1945

City's Exhibit 31-D—Arrangements re long distance service. 1964

City's Exhibit 32—Letter of March 10, 1911, from president of Chicago Telephone Company to the American Telephone & Telegraph Company..... 1971

City's Exhibit 33—Letter of December 5, 1917, from U. N. Bethell, vice-president of American Telephone & Telegraph Company, to Mr. B. E. Sunny, president of Chicago Telephone Company, Cleveland Telephone Company, Michigan State Telephone Company, and Wisconsin Telephone Company..... 1972.

City's Exhibit 34—Letter of December 10, 1917, from Mr. B. E. Sunny to U. N. Bethell, senior vice-president of American Telephone & Telegraph Company..... 1973

Page

City's Exhibit 35—Letter of December 14, 1917, from U. N. Bethell, vice-president of American Telephone & Telegraph Company, to Mr. B. E. Sunny, president of Chicago Telephone Company 1973

City's Exhibit 36—Letter of December 17, 1917, from Mr. B. E. Sunny to Mr. U. N. Bethell, senior vice-president of American Telephone & Telegraph Company 1974

City's Exhibit 37—Telegram of January 14, 1919, from P. W. Saxton to B. S. Garvey, Chicago, Illinois 1974

City's Exhibit 38—Letter of January 16, 1919, from general auditor to P. W. Saxton, acting auditor of the American Telephone & Telegraph Company 1974

City's Exhibit 39—Letter of January 25, 1919, from P. W. Saxton, auditor, to Mr. B. S. Garvey, general auditor of central group 1975

City's Exhibit 40—Letter of May 28, 1920, from H. B. Thayer, president of American Telephone & Telegraph Company, to Mr. B. E. Sunny, president of Chicago Telephone Company and Wisconsin Telephone Company 1976

City's Exhibit 41—Modification, dated May 3, 1921, of contract of 1891, between American Telephone & Telegraph Company and Chicago Telephone Company 1976

City's Exhibit 42—Modification of August 23, 1923, of contract of 1891, between American Telephone & Telegraph Company and Chicago Telephone Company 1978

City's Exhibit 43—Modification of August 22, 1924, of contract of 1891, between American Telephone & Telegraph Company and Chicago Telephone Company 1979

City's Exhibit 44—Statement showing distribution of Chicago gross American Telephone & Telegraph tolls between Illinois Bell Telephone Company and American Telephone & Telegraph Company from 1913 to 1925 1980

City's Exhibit 45—Copy of resolution of board of directors of Illinois Bell Telephone Company, January 16, 1882 1981

City's Exhibit 46—Table showing percentage of outstanding stock of Illinois Bell Telephone Company and its predecessor, Chicago Telephone Company, from 1881 to 1925, inclusive 1982

City's Exhibit 47—Extract from annual report of American Telephone & Telegraph Company, 1911 1983

City's Exhibit 48—Letter of July 23, 1912, from Mr. U. N. Bethell to Mr. B. E. Sunny, and letter of same date from Mr. U. N. Bethell to Mr. B. E. Sunny, together with statement of Mr. Bethell concerning same 1986

City's Exhibit 49—Resolution of board of directors of Illinois Bell Telephone Company, April 26, 1911, relating to the central group 1989

City's Exhibit 50—Contract of January 1, 1894, between American Bell Company and American Telephone & Telegraph Company 1990

Page

City's Exhibit 51—Contract of January 29, 1913, between Chicago Telephone Company and American Telephone & Telegraph Company, relating to employes' benefit fund.. 2091

City's Exhibit 52—Illinois Bell Telephone Company's plans for employes' pension, disability benefits, and death benefits 2096

City's Exhibit 53—Contract of December 30, 1914, between American Telephone & Telegraph Company and Chicago Telephone Company, relating to plan to aid employes of Bell System to become stockholders of American Telephone & Telegraph Company..... 2031

City's Exhibit 54—Statement of payments made to American Telephone & Telegraph Company by Illinois Bell Telephone Company, covering collections under employes' stock plans for years 1921 to 1925, inclusive..... 2032

City's Exhibit 55—Contract of November 5, 1904, between Western Electric Company and Chicago Telephone Company 2033

City's Exhibit 56—Standard supply contract and supplementary agreements between Western Electric Company and the associated Bell Telephone Companies..... 2040

City's Exhibit 57—Purchases of Illinois Bell Telephone Company from Western Electric Company for each year, 1902 to 1925, inclusive..... 2062

City's Exhibit 58—Resolution of July, 1911, of the several boards of directors of Central Union, Chicago, Michigan State, Wisconsin, and Cleveland Telephone Companies... 2036

City's Exhibit 59—Table showing ownership of stock in Western Electric by American Bell Company and by American Telephone and Telegraph Company from 1882 to 1913, inclusive..... 2064

City's Exhibit 60—Contract between American Bell Company and Western Electric Company, made on February 6, 1882..... 2068

City's Exhibit 61—Modification of the agreement of February 6, 1882, between American Bell Company and Western Electric..... 2075

City's Exhibit 64—Letter of March 24, 1909, from Theo. N. Vail, president of American Telephone & Telegraph Company, to B. E. Sunny, Esq., president of Chicago Telephone Company..... 2077

City's Exhibit 65—Letter of July 17, 1918, from Mr. U. N. Bethell, first vice-president of American Telephone & Telegraph Company, to Mr. B. E. Sunny, president of Chicago Telephone Company..... 2078

City's Exhibit 65-A—Resolution of executive committee of Illinois Bell Telephone Company, dated July 31, 1918.... 2080

City's Exhibit 66—Letter of December 16, 1912, from C. G. Du Bois, comptroller of American Bell Telephone Com-

Page

pany, to Mr. B. E. Sunny, president of Chicago Telephone Company 2081
City's Exhibit 67—Letter of January 29, 1913, from Mr. B. E. Sunny, president of Chicago Telephone Company, to Mr. Chas. G. Du Bois, comptroller of American Bell Company 2082
City's Exhibit 68—Table showing payments made by Illinois Bell Telephone Company to American Telephone & Telegraph Company, under license contract, 1902 to 1925.... 2083
City's Exhibit 69—Table showing average number of telephone sets of the Illinois Bell Telephone Company for the years 1912 to 1925..... 2084
City's Exhibit 70—Table showing average number of stations in service in the Chicago exchange of the Illinois Bell Telephone Company, 1919 to 1925, inclusive..... 2084
City's Exhibit 71—Table showing annual payments to American Bell Telephone Company by American Telephone & Telegraph Company for license revenues, 1881 to 1901.... 2085
City's Exhibit 72—Resolution of directors of Illinois Bell Telephone Company, February 21, 1922..... 2086
City's Exhibit 73—Extract from annual report of American Telephone & Telegraph Company, December 31, 1902.... 2087
City's Exhibit 73-A—Resolution of board of directors of Illinois Bell Telephone Company, January 9, 1903..... 2087
City's Exhibit 74—Answer filed by American Bell Telephone Company in suit of Western Union Telegraph Company, district court of United States, district of Massachusetts. 2091
City's Exhibit 75—Amendment to defendant's discharge in Western Union Telegraph Co. et al. vs. American Bell Telephone Company, district court of Massachusetts, filed with master November 20, 1907..... 2095
City's Exhibit 76—Tables showing advances made by American Telephone & Telegraph Company and associated and subsidiary companies to Chicago Telephone Company and Illinois Bell Telephone Company, years 1881 to 1925; advances made by Chicago Telephone Company and Illinois Bell Telephone Company to American Telephone and Telegraph Company and associated and subsidiary companies, years 1881 to 1925; amounts borrowed by Chicago Telephone Company and Illinois Bell Telephone Company from banks, years 1881 to 1925..... 2096
City's Exhibit 77—Tables relating to ownership of notes of the Central Union Telephone Company..... 2116
City's Exhibit 80—Balance sheets Illinois Bell Telephone Company, years 1901 to 1925, inclusive..... 2120
City's Exhibit 81—Table showing cash and stock dividends of the Illinois Bell Telephone Company, 1881 to 1925, inclusive 2120
City's Exhibit 82—Tables showing net earnings available for interest and dividends of the Illinois Bell Telephone Company, 1882 to 1925, inclusive..... 2121

Page

City's Exhibit 85—Resolution of board of directors of the Illinois Bell Telephone Company, January 26, 1916..... 2122

City's Exhibit 92—Order of public utility commission of Illinois, entered April 17, 1918, in the matter of the application of the City of Peoria to compel the Central Union Telephone Company to reduce its rates, etc..... 2123

City's Exhibit 93—Affidavit of G. W. Cummings..... 2130

City's Exhibit 94—Table illustrating effect of weighting on index numbers re W. F. Sloan's appraisals of Illinois Bell Telephone Company plant..... 2137

City's Exhibit 95—Comparison tables derived from Sloan's labor ratio and Sloan's material percentages..... 2138

City's Exhibit 96—Chart illustrating assumed mortality curve of exchange and toll pole lines..... 2147

City's Exhibit 97—Computation of depreciation (account 608) recorded in excess of provisions of order of public utilities commission in case No. 9291, effective in respect to depreciation as of July 31, 1919..... 2148

City's Exhibit 98—Table showing comparison of labor hour performance (New York Telephone Company, exchange aerial cable, all specific and routine estimates)..... 2149

City's Exhibit 99—Table showing comparison of labor hour performance (New York Telephone Company, exchange aerial cable, all specific estimates)..... 2150

City's Exhibit 100—Table showing comparison of labor hour performance (New York Telephone Company, exchange aerial cable, all routine estimates)..... 2151

City's Exhibit 101—Table showing comparison of labor hour performance (New York Telephone Company, exchange underground cable, all specific and routine estimates)..... 2152

City's Exhibit 102—Table showing comparison of labor hour performance (New York Telephone Company, exchange underground cable, all specific estimates)..... 2153

City's Exhibit 103—Table showing comparison of labor hour performance (New York Telephone Company, exchange underground cable, all routine estimates)..... 2154

City's Exhibit 104—Table showing comparative price levels, 1923, 1924, and 1925..... 2155

City's Exhibit 106—Tables showing weights and proportions of base metals in typical sizes of 22 gauge (BSA) cable and metal index for copper and lead on 1923 base for years 1911-1923..... 2155

City's Exhibit 107—Table showing base metal prices and composite metal prices in typical sizes of 22 gauge (BSA) cable..... 2156

City's Exhibit 108—Table showing working capital of Illinois Bell Telephone Co..... 2157

City's Exhibit 109—Affidavit of Harry G. Westphaln..... 2158

City's Exhibit 110—Table showing comparison of bond yields of American Telephone & Telegraph Company, Illi-

Page

nois Bell Telephone Company, and Commonwealth Edison Company 2159
City's Exhibits 111-112—Tables showing yield for Illinois Bell Telephone Company computed on Mr. Crunden's basis. 2160
City's Exhibit 113—Table illustrating result of charging depreciation at rate of 2½ per cent for the Chicago exchange of the Illinois Bell Telephone Company..... 2162
City's Exhibit 115—Resolution of board of directors of Illinois Bell Telephone Company, November 27, 1918..... 2163
City's Exhibit 116—Table analyzing the difference between the amounts billed for use of plant for long lines service as shown on Plaintiff's Exhibit 15 and the Illinois Bell's portion of Chicago gross tolls as shown on City's Exhibit 44 2164
City's Exhibits 118-119—Act of 1886 of General Assembly of Massachusetts 2166
City's Exhibit 120—Certificate of incorporation of American Telephone & Telegraph Company..... 2171
City's Exhibit 121—Letter, Wickersham to Prouty..... 2173
City's Exhibit 123—Contract of November, 1891, between American Telephone & Telegraph Company and Central Union Telephone Company..... 2181
City's Exhibit 126—List of the directors of the Illinois Bell Telephone Company as of December 31st for the years 1884 to 1925..... 2186
City's Exhibit 127—Table showing shares of Illinois Bell Telephone Company's stock (qualifying and/or directly owned) held by directors of the company during the years 1911 to 1925..... 2191
City's Exhibit 128-A—Extracts from general engineering circulars (Vol. I)..... 2196
City's Exhibit 128-B—Extracts from general engineering circulars (Vol. II)..... 2204
City's Exhibit 128-C—Extracts from general engineering circulars (Vol. III)..... 2209
City's Exhibit 128-D—Extracts from general engineering circulars (Vol. IV)..... 2216
City's Exhibit 128-E—Extracts from general engineering circulars (buildings) (Vol. V)..... 2223
City's Exhibit 128-F—Extracts from commercial circulars (Vol. VI)..... 2225
City's Exhibit 128-G—Extracts from commercial circulars (Vol. VII)..... 2232
City's Exhibit 128-H—Extracts from traffic circulars (Vol. VIII) 2241
City's Exhibit 128-I—Extracts from traffic circulars (Vol. IX) 2246
City's Exhibit 128-J—Extracts re personnel service..... 2263
City's Exhibit 132—Extract from "The Economist" of November 25, 1911, page 909..... 2273

Page

City's Exhibit 133—Table showing price range of American Telephone & Telegraph Company stock and Chicago Telephone Company stock from Investors' Manual between June, 1911, and June, 1914..... 2275

City's Exhibit 134—Letter of December 1, 1920, from E. G. Drew, secretary of Chicago Telephone Company, to the stockholders 2276

City's Exhibit 135—Resolution of stockholders of December 22, 1920, re change of name to Illinois Bell Telephone Company 2277

City's Exhibit 136—Articles 3, 4, and 5 from by-laws of the Illinois Bell Telephone Company..... 2278

City's Exhibit 137—List of associated companies and percentage of their stock owned by American Telephone & Telegraph Company as of June 30, 1923..... 2280

City's Exhibit 138—List of subsidiary State companies, 100% owned by American Telephone & Telegraph Company, as of June 30, 1923..... 2282

City's Exhibit 139—Table, "other subsidiaries of American Telephone & Telegraph Company," as of June 30, 1923... 2283

City's Exhibit 140—Table of depreciation rates applicable to classes of plant of Illinois Bell Telephone Company, by divisions, effective January 1, 1924..... 2284

City's Exhibit 141—Traffic circular No. 173 supplementing traffic circular No. 117..... 2285

City's Exhibit 142—Table showing average loans of American Telephone & Telegraph Company to licensee companies, 1918-1928..... 2291

City's Exhibit 142-A—Table showing amounts received by American Telephone & Telegraph Company from all associated Bell Companies as licensee payments in years 1918 to 1928..... 2292

City's Exhibit 142-B—Table showing average number of sets of instruments in use during 1918-1927 by each licensee company..... 2293

City's Exhibit 142-C—Table showing estimated requirements and cash taken by Illinois Bell Telephone Company from American Telephone & Telegraph Company..... 2294

City's Exhibit 142-D—Table showing interest rates on money loaned by American Telephone & Telegraph Company to subsidiary companies, 1918-1928..... 2295

City's Exhibit 142-E—Table showing cost of capital funds procured by American Telephone & Telegraph Company, 1918-1928 2296

City's Exhibit 142-F—Table listing cases where proceeds from public financing by associated companies were temporarily placed with American Telephone & Telegraph Company until required..... 2297

City's Exhibit 142-G—Table showing funds held available by American Telephone & Telegraph Company for associated companies and average yield thereon..... 2298

Page

City's Exhibit 143—Table showing total number of telephones of Illinois Bell Telephone Company, 1880-1928.... 2299
City's Exhibit 146—Resolution of board of directors of Illinois Bell Telephone Company, May 4, 1904, re Western Electric contract..... 2300
City's Exhibit 147—Resolution of board of directors of Illinois Bell Telephone Company re modification of toll agreement with American Telephone & Telegraph Company 2301
City's Exhibit 148—Table showing cost of capital funds procured by American Telephone & Telegraph Company.. 2302
City's Exhibit 149—Authority sheet, estimate No. eg-20029. 2303
City's Exhibit 150—Final completion report, estimate eg-20020 2315
City's Exhibit 151—Table showing amount of stock of American Telephone & Telegraph Company issued to employees 2318
City's Exhibit 152-A—Pages from Chicago telephone directory 2319
City's Exhibit 152-D—Page from Chicago telephone directory 2322
City's Exhibit 152-E—Page from Chicago telephone directory 2323
City's Exhibit 152-F—Page from Chicago telephone directory 2324
City's Exhibit 152-G—Page from Chicago telephone directory 2325
City's Exhibit 152-H—Page from Chicago telephone directory 2325
City's Exhibit 152-I—Page from Chicago telephone directory 2326
City's Exhibit 153—Contract of December 1, 1910, between Western Electric Company and Chicago Telephone Company 2327
City's Exhibit 154—Contract of January 14, 1913, between Western Electric Company and Chicago Telephone Company 2332
City's Exhibit 155—Letter of October 13, 1920, from G. E. Cullinan, central district manager of Western Electric Company, to Mr. B. E. Sunny..... 2337
City's Exhibit 156—Standard supply contract between Western Electric Company and Chicago Telephone Company, dated October 8, 1920..... 2338
City's Exhibit 158—Comparative table showing effect of weighting by material quantities, 1920-1923..... 2343
City's Exhibit 159—Table illustrating that if ratio of prices is fixed, index is fixed regardless of units considered.... 2344
City's Exhibit 161—Table showing comparison of Plaintiff's Exhibits 50 and 68 as to number of feet of cable placed and purchased in year 1921..... 2345
City's Exhibit 90—Excerpts from annual reports of Telephone Co., 1880 to 1928..... 2347

	Page
1880	2349
1881	2352
1882	2355
1883	2357
1884	2360
1885	2363
1886	2368
1887	2369
1888	2370
1889	2372
1890	2373
1891	2374
1892	2375
1893	2379
1894	2382
1895	2383
1896	2385
1897	2386
1898	2387
1899	2388
1900	2389
1901	2390
1902	2392
1903	2399
1904	2404
1905	2409
1906	2416
1907	2423
1908	2431
1909	2442
1910	2452
1911	2471
1912	2484
1913	2499
1914	2510
1915	2531
1916	2543
1917	2560
1918	2569
1919	2578
1920	2599
1921	2616
1922	2628
1923	2640
1924	2657
1925	2669
1926	2677
1927	2680
1928	2683
Order approving statement of evidence	2685
Clerk's certificate.....(omitted in printing)..	
Statement of points to be relied upon and designation as to record...	2685

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1929.

No. .....

ILLINOIS BELL TELEPHONE COMPANY,
Appellee,

vs.

FRANK L. SMITH, CICERO J. LINDLY, HAL W. TROVILLION, P. H. MOYNIHAN, WILLIAM BURKHARDT, EDWARD H. WRIGHT and WILLIAM J. SMITH, the persons constituting the Illinois Commerce Commission of the State of Illinois, and OSCAR E. CARLSTROM, Attorney General of the State of Illinois,

AND *Appellants,*

CITY OF CHICAGO, a Municipal Corporation,
Appellant.

APPEAL FROM DISTRICT COURT OF THE UNITED STATES, FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION (3746).

VOL. I.

PLEADINGS, MOTIONS, ORDERS, OPINION, DECREE & PROCEEDINGS FOR APPEAL IN DISTRICT COURT.

EXHIBITS OF ILLINOIS COMMERCE COMMISSION.

EXHIBITS OF CITY OF CHICAGO REJECTED BY ORDER OF COURT.

Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, in Chancery sitting, at the United States Court Room in the City of Chicago, in said District and Division, before the Honorable Evan A. Evans, and George T. Page, Judges of the Circuit Court of Appeals for the Seventh Judicial Circuit, and Honorable James H. Wilkerson, District Judge for the said District, the 28th day of February, being one of the days of the February Term of said Court, beginning Monday, the third day of February, in the year of Our Lord one thousand nine hundred and thirty and of the Independence of the United States of America the one hundred fifty-fourth.

Present:

Honorable EVAN A. EVANS,
Judge of the Circuit Court of Appeals,
Seventh Circuit;

Honorable GEORGE T. PAGE,
Judge of the Circuit Court of Appeals,
Seventh Circuit, and

Honorable JAMES H. WILKERSON,
District Judge, Northern District of Illinois.

H. C. W. LAUBENHEIMER,
U. S. Marshall for said District, and

CHARLES M. BATES,
Clerk of said Court.

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

ILLINOIS BELL TELEPHONE COMPANY, Plaintiff, vs. **FRANK L. SMITH, CICERO J. LINDLY, HAL W. TROVILLION, P. H. MOYNIHAN, JAMES F. SULLIVAN, ALEX J. JOHNSON and WILLIAM J. SMITH, the persons constituting the Illinois Commerce Commission of the State of Illinois, and EDWARD J. BRUNDAGE, Attorney General of the State of Illinois,** Defendants.	**In Equity No. 3746.**

Bill of Complaint of Illinois Bell Telephone Company.

To the Honorable Judges of the District Court of the United States for the Northern District of Illinois, Eastern Division:

Illinois Bell Telephone Company, plaintiff, brings this its bill of complaint against the defendants, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson, and William J. Smith, the persons constituting the Illinois Commerce Commission of the State of Illinois, and Edward J. Brundage, Attorney-General of the State of Illinois, and for its cause of action alleges:

First.

That plaintiff is a corporation duly created and existing pursuant to the laws of the State of Illinois, with its principal office in the City of Chicago in said State, and during all the

times herein referred to has owned and operated a telephone system in the City of Chicago and throughout portions of the State of Illinois and in a part of the State of Indiana, furnishing to its subscribers and patrons telephone exchange service and both intrastate and interstate toll service.

Second.

That the defendants first hereinabove named are the persons constituting the Illinois Commerce Commission of the State of Illinois, which is an administrative body duly created by the statutes of said State, and they will hereafter be referred to collectively as the Illinois Commerce Commission, and the defendant last named, Edward J. Brundage, is Attorney-General of the State of Illinois; that the defendant Frank L. Smith, a member and Chairman of the Illinois Commerce Commission, is a citizen and resident of Livingston County, Illinois; the defendant Cicero J. Lindly, a member of the Illinois Commerce Commission, is a citizen and resident of Bond County, Illinois; the defendant Hal W. Trovillion, a member of the Illinois Commerce Commission, is a citizen and resident of Williamson County, Illinois; the defendant P. H. Moynihan, a member of the Illinois Commerce Commission, is a citizen and resident of Cook County, Illinois; the defendant James L. Sullivan, a member of the Illinois Commerce Commission, is a citizen and resident of Cook County, Illinois; the defendant Alex J. Johnson, a member of the Illinois Commerce Commission, is a citizen and resident of Cook County, Illinois; the defendant William J. Smith, a member of the Illinois Commerce Commission, is a citizen and resident of Lake County, Illinois; and the defendant Edward J. Brundage, Attorney-General of the State of Illinois, is a citizen and resident of Sangamon County, Illinois.

Third.

That the plaintiff is subject to the jurisdiction of the Interstate Commerce Commission under the Act of Congress entitled "The Act to Regulate Commerce, June 4, 1887," and amendments thereto, and is a common carrier as therein defined.

Fourth.

That this suit is of a civil nature in equity, and is brought for the purpose of enjoining the enforcement of a certain

order of said Illinois Commerce Commission, dated August 16, 1923, prescribing certain rates and charges to be charged by the plaintiff on and after October 1, 1923, to its subscribers and patrons within the City of Chicago, as hereinafter more particularly stated, and arises under the Constitution and laws of the United States, in that, as plaintiff avers, the rates prescribed in said order are confiscatory of plaintiff's property used or useful in furnishing said telephone service, and said order therefore seeks to deprive the plaintiff of its property without due process of law, and denies the plaintiff the equal protection of the laws, in violation of its rights under the Fourteenth Amendment to the Constitution of the United States, and that said order is therefore null and void.

The amount in controversy in this suit exceeds the value or sum of Three Thousand Dollars ($3,000), exclusive of interest and costs.

Fifth.

That on the thirteenth day of September, A. D. 1921, the Illinois Commerce Commission issued a certain citation against the plaintiff, a true copy of which is hereto attached as Exhibit "A," and the plaintiff duly filed an answer to said citation, a true copy of which is hereto attached as Exhibit "B"; that thereafter hearings were instituted by said Illinois Commerce Commission on said citation and answer, and that the plaintiff introduced evidence before said Commission upon said hearings, all without prejudice to the rights of the plaintiff, as set forth in said answer; that at the conclusion of said evidence offered by the plaintiff, the plaintiff moved to dismiss said citation, which motion was overruled by the Illinois Commerce Commission, and that thereafter evidence was introduced in said proceedings by said Illinois Commerce Commission and by representatives of the City of Chicago, a municipal corporation; that said hearings were concluded on or about July 26, 1923, and on August 16, 1923, the Illinois Commerce Commission entered its said final order, a true copy of which is hereto attached as Exhibit "C"; that thereafter the plaintiff filed a petition for rehearing before said Illinois Commerce Commission, a true copy of which is hereto attached as Exhibit "D," and that on September 4, 1923, the Illinois Commerce Commission denied said petition for rehearing and notified the plaintiff thereof on September 8, 1923.

Sixth.

That the cost to plaintiff of its property in the City of Chicago and State of Illinois now being used or useful in furnishing its intrastate telephone service to its subscribers and patrons within said City, and exclusively devoted to the rendition of that service was, as it existed on June 30, 1923, not less than the sum of $103,500,000, exclusive of working capital, materials and supplies, work in progress, and going value.

That the reproduction cost new of said property as it existed on June 30, 1923, is at least the sum of $135,500,000, exclusive of working capital, materials and supplies, work in progress, and going value.

That the present fair value of said property is at least the sum of $144,500,000, including working capital, materials and supplies, and going value.

Seventh.

That the present rates and charges of the plaintiff in the City of Chicago were fixed and determined as fair and reasonable rates and charges by an order of the Public Utilities Commission, predecessor of said Illinois Commerce Commission, dated December 20, 1920; that said rates and charges became effective January 1, 1921, and have remained continuously in effect thereafter.

That the revenues produced by said rates after the payment of operating expenses and taxes of the Company, leave available for return on all the property of the plaintiff in the City of Chicago, resulting from the operations of the plaintiff within said City, including interstate operations, the amounts shown below:

1921	$5,563,229
1922	6,414,051
1923 first seven months computed on an annual basis	6,268,011

That the revenues produced by said rates after the payment of operating expenses and taxes, as aforesaid, leave available for return on the property of the plaintiff in the City of Chicago, excluding its interstate property, resulting from the intrastate operations of the plaintiff within the said City for the first seven months of the year 1923, computed on an annual basis, the amount of $5,807,450.

That plaintiff's telephone business in said City of Chicago has been conducted efficiently and economically during all the times herein referred to.

Eighth.

That the present rates and charges of the plaintiff as aforesaid are not in excess of fair and reasonable rates and charges, and that the fair annual return which the plaintiff is entitled to earn under rates imposed upon it by public authority, is an amount equal to not less than eight per cent of the fair value at the time of its use of its property used or useful in the rendition of its service.

Ninth.

That the rates and charges prescribed by said order of Illinois Commerce Commission entered August 16, 1923, will not afford the plaintiff a fair return upon the fair value at the time of use of its property used or useful in, and exclusively devoted to intrastate telephone service in the City of Chicago, but are confiscatory and are not fair and reasonable rates.

That said rates and charges, if permitted to become effective, will reduce the amount available for return for the plaintiff, as aforesaid, by not less than the sum of $1,700,000 per annum, and said rates and charges, if enforced, will deprive the plaintiff of its property without due process of law, and will deny to plaintiff the equal protection of the laws in violation of its rights under the Fourteenth Amendment to the Constitution of the United States.

That if said order complained of is enforced, and if the plaintiff continues to practice all reasonable economies consistent with adequate and efficient service to its subscribers and patrons, the revenues produced by said rates, after the payment of operating expenses and taxes resulting from the operations of the property of the plaintiff exclusively devoted to intrastate telephone service in the City of Chicago, will leave available for return less than three per cent per annum on the present fair value of said property.

That if said order complained of is enforced and if the plaintiff continues to practice all reasonable economies consistent with adequate and efficient service to its subscribers and patrons, the revenues produced by said rates, after the payment of operating expenses and taxes resulting from the

operations of the property of the plaintiff exclusively devoted to exchange service in the City of Chicago, will leave available for return less than three per cent per annum upon the present fair value of said property.

Tenth.

That the Illinois Commerce Commission, under the laws of the State of Illinois, had no authority to prescribe rates to be charged by the plaintiff in lieu of the present rates of the plaintiff except upon a valid finding that the said present rates are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provisions of law; that the finding of said Illinois Commerce Commission in said order of August 16, 1923, that the present rates of the plaintiff are unjust and unreasonable is void, as appears from said finding, and that the rates therein prescribed are therefore contrary to law and void.

That in its findings in said order the said Commission did not fix and determine proper valuations of the property of the plaintiff, and in arriving at the value fixed in said order of $96,000,000, the Commission omitted certain portions of the said property of the plaintiff, and in its findings in said order arbitrarily disregarded and disallowed certain expenses of the plaintiff reasonably incurred in operating its said property, and disregarded certain orders and rules of the Interstate Commerce Commission, all contrary to law, and that for the reasons aforesaid the said order of said Commission is null and void.

Eleventh.

Unless the defendants are restrained and enjoined as herein prayed, they will, as plaintiff believes and so alleges, attempt to compel the plaintiff to comply with said order of said Commission of August 16, 1923, and to enforce the penalties prescribed by the laws of the State of Illinois, and plaintiff, its directors, officers, agents and employes will be deterred and prevented by the threat of said penalties from charging lawful rates on and after October 1, 1923, and from charging any rates other than the rates prescribed by said order, and thereby plaintiff will be forced to submit to the confiscation of its property without due process of law and in violation of its rights under the Constitution of the United States, as hereinbefore alleged, and will be subjected to great and irreparable loss and damage.

Unless the defendants are restrained and enjoined as herein prayed, the plaintiff's subscribers in the City of Chicago will, as plaintiff believes and so alleges, be induced and caused to resist and refuse payment of any rates other than those prescribed in said order. The present number of plaintiff's subscribers in the City of Chicago is more than 460,000, and the present average monthly bill rendered to them is less than Seven Dollars ($7.00). Because of the nature of the business of the plaintiff and the fact that the amounts due monthly from its subscribers for telephone service are generally small, it is impracticable for plaintiff to enforce collection thereof by actions of law; plaintiff has no practical way to enforce collection of its rates and charges except by cutting off and refusing service for default in payment of its bills rendered monthly therefor, and its subscribers will, as plaintiff believes and so alleges, institute large numbers of suits in the City of Chicago to restrain the plaintiff from cutting off and denying service for such non-payment of bills and for damages, and plaintiff will thereby be subjected to endless multiplicities of suits. That the issues which would be presented in each suit are presented and should and will be decided in this action.

That if the plaintiff is compelled to make effective the rates prescribed in such order, even for a limited period, the plaintiff's property will be confiscated and the expenses of accounting and collection will be greatly increased, and the business of the plaintiff seriously interfered with.

That the plaintiff has no plain, speedy or adequate remedy at law.

WHEREFORE, PLAINTIFF PRAYS:

First, that the rates prescribed in said order of said Commission of August 16, 1923, be decreed to be in violation of the Constitution of the United States, and the order imposing the same to be void.

Second, that defendants and each of them and all other persons, be temporarily and permanently restrained and enjoined from any attempt to compel the plaintiff, its officers, agents and employes to observe or put in force on October 1, 1923, or to observe or keep in force thereafter, the rates for telephone service prescribed by said order, or to comply with said order.

Third, that the defendants and each of them and all other persons be temporarily and permanently restrained and enjoined from taking any steps or proceedings against the

plaintiff, its directors, officers, agents or employes to enforce any penalties or other remedy for disregarding the rates prescribed by said order.

Fourth, that the plaintiff have such other and further relief as may be just and equitable in the premises.

MAY IT PLEASE YOUR HONORS to grant unto the plaintiff a writ of subpoena of the United States of America, issuing out of and under the seal of this honorable court, directed to the said defendants, Frank H. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson and William J. Smith, the persons constituting the Illinois Commerce Commission of the State of Illinois, and Edward J. Brundage, Attorney-General of the State of Illinois, commanding them and each of them on a day certain to be named therein and under a certain penalty to be and appear before this honorable court, then and there to answer, but not under oath, answer under oath being hereby expressly waived, all and singular the premises, and to perform and abide by such orders, direction or decree as may be made against them in the premises, and that pending the hearing and determination of the application for an interlocutory injunction herein, a temporary restraining order may be issued as above prayed.

And the plaintiff will ever pray.

ILLINOIS BELL TELEPHONE COMPANY.
(Signed) By CHARLES S. CUTTING,
P. B. WARREN,
WILLIAM D. BANGS,
Its Solicitors.

CHARLES S. CUTTING,
P. B. WARREN,
WILLIM D. BANGS,
Of Counsel for Plaintiff.

UNITED STATES OF AMERICA.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

William R. Abbott, being first duly sworn, on oath deposes and says that he is President of Illinois Bell Telephone Company, plaintiff herein. That he has read the foregoing bill of complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein

stated to be alleged upon information and belief, and as to those matters he believes it to be true.

WILLIAM R. ABBOTT.

Subscribed and sworn to before me this twentieth day of September, A. D. 1923.

E. D. MEYERS,
Notary Public for the County and State aforesaid.

(NOTARY'S SEAL.)

EXHIBIT "A".

STATE OF ILLINOIS.

ILLINOIS COMMERCE COMMISSION.

Illinois Commerce Commission,
on its own motion,
vs.
Chicago Telephone Company,
Now, Illinois Bell Telephone Company,
Relative to Rates.

CITATION.

By the Commission:

It appearing to the Commission that heretofore the Chicago Telephone Company, now Illinois Bell Telephone Company, have been granted an increase in their rates charged for telephone service in the City of Chicago and such adjacent territory as constitutes the Chicago exchange, and it appearing further to the Commission that said increase in rates of said Chicago Telephone Company, now Illinois Bell Telephone Company, were granted under excessively high operating conditions, and it appearing further to the Commission that operating conditions have considerably modified and are lower than at the time said increased rates were granted.

IT IS THEREFORE ORDERED that the Chicago Telephone Company, now Illinois Bell Telephone Company, be, and the same is hereby, ordered to be and appear before the Commission at its office at 139 N. Clark St., Chicago, Illinois, on the 29th day of September, 1921, at the hour of

10:00 A. M., then and there to show the Commission why its said rates and charges in the City of Chicago and such adjacent territory as constitutes the Chicago exchange should not be reduced.

By order of the Commission, at Springfield, Illinois, this 13th day of September, 1921.

JULIUS JOHNSON,
Secretary.

EXHIBIT "B".

STATE OF ILLINOIS.

ILLINOIS COMMERCE COMMISSION.

Illinois Commerce Commission, on its own motion, vs. Chicago Telephone Company, Now, Illinois Bell Telephone Company, Relative to Rates.	No. 11894

Now comes Illinois Bell Telephone Company, formerly Chicago Telephone Company, respondent in the above entitled proceeding, and in response to the order and citation of the Commission, entered herein on the 13th day of September, 1921, respectfully says:

I.

That this Commission has no power or authority to order or cite respondent, and respondent is not required by law, to appear and show why its rates and charges should not be reduced, as commanded in and by said order of this Commission, entered herein on the 13th day of September, 1921.

II.

That the rates and charges of respondent, referred to in said order and citation, were authorized and approved as just and reasonable by an order of the Public Utilities Commission of Illinois (predecessor of this Commission)

entered on the 20th day of December, 1920, after an extensive investigation by said Commission, in a proceeding before it known as Docket No. 9291, in which respondent filed with said Commission certain schedules of rates for its approval; that said order of said Commission finding such rates and charges just and reasonable has not been reversed or set aside and now remains in full force and effect.

III.

That said rates and charges of respondent, so approved and authorized as just and reasonable by said Commission, were not approved and authorized under excessively high operating conditions and the operating conditions of this respondent have not considerably modified and are not lower than those existing at the time of the entry of said order by said Commission; that since the entry of said order so authorizing and approving said rates and charges, no competent proof or evidence of any character has been presented to this Commission or its predecessor, the Public Utilities Commision of Illinois, in any proceeding to which this respondent was a party, showing or tending to show, either that said rates and charges were approved and authorized as just and reasonable under excessively high operating conditions or that operating conditions have considerably modified and are lower than at the time of the approval and authorization of said rates and charges as aforesaid; that the operating expenses of this respondent in the City of Chicago during the period of said investigation and since the entry of said order have actually increased, all of which appears from the monthly reports of this respondent now on file in the office of this Commission.

IV.

That this respondent avers that until competent evidence has been produced in a proceeding, properly instituted, proving or tending to prove that the rates and charges, approved and authorized as aforesaid, are unjust and unreasonable, the presumption is that such rates and charges are just and reasonable, and respondent is under no obligation to introduce evidence or make any

showing as to the justice or reasonableness of such rates and charges.

V.

That if this Commission desires to investigate the justice and reasonableness of the rates of respondent, as in such case made and provided by the statutes of this state, respondent will co-operate with this Commission, but respondent avers that its rates and charges heretofore approved and authorized by the aforesaid order of the Public Utilities Commission of Illinois, entered on the 20th day of December, 1920, and now in full force and effect, are just and reasonable, and that the burden of proof is upon whomsoever avers, or seeks to show, that said rates and charges are unjust or unreasonable.

VI.

The respondent having answered said order and citation, prays that it may be dismissed.

ILLINOIS BELL TELEPHONE COMPANY,
By CUTTING, MOORE & SIDLEY,
Its Attorneys.

WILLIAM P. SIDLEY,
PHILIP B. WARREN,
WILLIAM D. BANGS,
Of Counsel.

EXHIBIT "C".

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION, on its own motion,	
vs.	
CHICAGO TELEPHONE COMPANY (Now ILLINOIS BELL TELEPHONE COMPANY.)	**11894.**
Citation to show cause why rates for telephone service in the City of Chicago and such adjacent territory as constitutes the Chicago exchange, should not be reduced.	

FINAL ORDER.

BY THE COMMISSION:

The present rates for telephone service in the City of Chicago charged by the Chicago Telephone Company were made effective by an order entered December 20, 1920, by the Public Utilities Commission of Illinois. In that order the Commission made findings relative to the cost and value of the property, operating expenses, and all other facts necessary for the determination of just and reasonable rates. That Commission, however, had in mind that subsequent to the entry of that order further inquiry into the matter of rates for telephone service might be necessary and made provision for such further inquiry in the following language:

> "(9) It is understood that in the entry of this order the Commission has in view the possibility and probability of readjustments of operating expenses resulting from a return to normal conditions, and, as to such questions as well as to all questions relative to the sufficiency and adequacy of service furnished to the patrons of these

utilities, the Public Utilities Act provides proper remedies for all such situations if and when they severally arise; and, as to such matters, the right is reserved to the parties hereto to present them to the Commission at any time by appropriate proceedings."

The present Commission having observed to some extent the operation of the Chicago Telephone Company under the rates authorized by the previous Commission, and having in mind that the readjustments to which the previous Commission referred might have in fact been realized, issued an order under the date of September 13, 1921, requiring the said company to appear and show cause why its rates and charges for telephone service in the City of Chicago should not be reduced. The matter came on for a hearing November 17, 1921, whereat the company was represented by William P. Sidley, Philip B. Warren and William D. Bangs. On June 13, 1923, the additional appearance of Ben B. Boynton as counsel for respondent was entered. During the course of the proceedings after May 11, 1923, the City of Chicago was represented by special counsel, Stephen A. Foster, and later the appearance of Francis X. Busch, corporation counsel for the City of Chicago, was entered. The case was finally closed after oral argument was had and the matter taken under advisement by the Commission on July 31, 1923.

During the progress of these proceedings exhaustive inquiry was made into matters having to do with the fixing of rates. The transcript of the evidence and arguments approximate 4500 pages, in addition to which more than 100 exhibits were filed by the company and an approximately equal number by the City of Chicago. During the progress of this case the Commission's accounting staff made an exhaustive investigation and presented voluminous reports as a result thereof.

The purpose of this proceeding instituted on behalf of the Commission is to inquire into the reasonableness of the existing rates and it was not the Commission's intention to effect a change unless the evidence clearly indicated that the best interests of both the subscriber and the company would be thereby served. This commission believes that the public is best served by a utility that is earning a fair return on its property after paying all necessary and reasonable operating expense and maintenance charges. Obviously the subscribers' service must suffer if there are not sufficient revenues avail-

able to permit of proper maintenance of property and the employment of efficient officials and operating forces.

The present schedule of rates for telephone service which was authorized by the order of the previous Commission above referred to and which rates were made effective January 1, 1921, are in part as follows:

SCHEDULE OF TELEPHONE RATES.

Individual measured business	$4.00 per month
(Including 80 calls)	
Calls from 81 to 200	4c each
All calls over 200	3½c each
Individual business coin box	$6.00 per month
(Including 120 calls)	
All calls over 120	5c each
Two-party business coin box	$4.50 per month
(Including 90 calls)	
All calls over 90	5c each
Private Branch exchange—	
Cordless	$3.00 per month
Cord, 1 to 30 lines	$6.00 per month
Each additional strip, 10 jacks	$1.00 per month
Cord (multiple) based on cost of switchboard and wiring—	
Stations without dial	$ .75 per month
Stations with dial	$1.00 per month
Extensions—	
Business extensions	$ .75 per month
Residence extensions	$ .50 per month
One-party measured residence	$3.75 per month
(Including 75 calls)	
Calls from 76 to 200	4c each
All calls over 200	3½c each
Two-party residence coin box	$3.75 per month
(Including 75 calls)	
All calls over 75	5c each
Four-party residence coin box	$ .09 per day
(Including 1.8 calls)	
All calls over 1.8 calls per day	5c each
Private line stations	$ .75 per month
Extension line, private line and long distance terminals, minimum mileage one-half mile	$4.50 per month
Extra for one-quarter mile or fraction thereof	$1.25 per month
Located in same building	$4.50 per month
Extra name listing in directory	$ .50 per month
Use of private station meter	$ .50 per month

These rates were intended to produce a return of 7.9 per cent upon a value of $70,000,000 after providing for operating costs, taxes, rents, miscellaneous deductions from income, and an annual allowance of $2,000,000 to cover accruing depreciation plus four per cent upon the net additions to plant made after the date of finding of value.

Valuation of Property.

In the consideration of fair value the law is fairly well settled that a public utility is entitled to earn a fair return upon the fair value of its property, used and useful, in the

public service. As to what constitutes a fair value and what considerations should enter into the fixing of a fair value, the decisions of our courts and Commission are at a wide variance. At the outset there is a variance in the decisions of the courts because in some decisions the consideration of the court is a reasonable return upon the value of the property of a corporation, used and useful, in the public service, while in other cases the consideration of the court is directed toward the question of whether or not the value fixed amounts to a confiscation of the property of the corporation in question. Certain fundamental economic principles should always be considered in the fixing of a fair value. The interests of the corporation are practically coincident with the interests of the public. The valuation of the company should be such that capital seeking investment would flow in sufficient amount into the securities of the company that it might make, without any considerable effort, necessary investments to insure public service. Again, its securities should be maintained at or near par in order that an undue burden should not be thrown upon the operating department of the utility in order to amortize any undue costs of selling securities or of securities sold at much less than par. In this regard, the financial structure of a company is a matter of grave import in that the financial structure should be so devised that the securities of the company may have the widest possible market and its structure so simple that any person having funds to invest might find the securities of the ordinary utility available for such investment.

Some courts have said that the value is to be fixed as of the date of the inquiry. This may be true as a strictly legal proposition, but in considering all of the economic laws governing the perpetuity of a company in service, a fair value must be so fixed as will, within reasonable conditions in the future, furnish a safe and reliable valuation both for the flotation of securities, for the security of capital invested and for furnishing a field for the investment of new finances in the future development of the company. In this regard not only must the Commission be governed by considerations of a value and rate not subject to the criticisms of confiscation but it must also consider trend of prices, original cost, reproduction cost and all other considerations which may in any manner assist the Commission in fixing such a value which, in the fluctuation of prices and cost reasonably to be expected in the immediate future, will carry the company through on a safe, sound and economic financial basis.

In the instant case most of the evidence of cost of property is based on the recorded plant account of the company, here referred to as book value and will therefore be considered at this point. Exhibits filed in this case show the book value as of December 31, 1921, and December 31, 1922, as follows:

	Book Value	
	Dec. 31, 1921	Dec. 31, 1922
Right of way	$232,642	$238,380
Land	1,332,249	1,349,641
Buildings	8,968,350	9,112,167
Plant	65,611,572	73,213,458
General equipment	1,117,801	1,287,480
Interest	132,332	486,690
	$77,394,946	$85,687,816

This book value, or plant and equipment account, has been carried forward for a number of years. In order to prove its accuracy the company produced as evidence a valuation prepared in 1911 by H. M. Byllesby & Company and The Arnold Company and compared the cost then determined with its then existing plant account. The Byllesby and Arnold appraisal as of August 1, 1911, is as follows:

Item.	
1. Buildings	$ 2,642,405
2. Land	1,173,937
3. Central office equipment	4,960,673
4. Subscribers' station equipment	6,409,151
5. Exchange lines and toll lines	15,680,752
6. Construction in progress	1,392,861
7. Office furniture and fixtures	245,151
8. Tools and vehicles	273,426
9. Supplies	660,288
10. Working capital	887,250
Total	$34,325,894

By taking the third, fourth and fifth items of the above appraisal and making certain reclassification to bring them into conformity with the plant account a total of $24,170,760 is obtained for these items and in the following manner:

Central office equipment	$ 4,960,673
Subscribers' station equipment	6,409,151
Exchange lines and toll lines	15,680,752
Total	$27,050,576
Deductions (per statement 2 of Co. Exh. 88)—	
Interest and brokerage	$ 2,217,975
Unused apparatus and wiring	113,655
Unused drop wires	37,352
Paving laid after conduits 2/7 of total	512,236
Total deductions	$ 2,881,218
Add, Dolton, Ill., transferred from Suburban Division	1,402
Total plant as of 7-31-11	$24,170,760

The plant account for the same items at that date was $23,655,539 and shows a substantial agreement with the appraised value, the latter being but 2.178 per cent higher than the former. Evidence was introduced showing that substantially the same price levels prevailed in 1911 as had prevailed for several years prior thereto and it is stated that the appraised value as of that date, agreeing so closely as it does with the recorded costs of the same property, supports the accuracy of the book figures. Subsequent to the completion of the Byllesby and Arnold appraisal the various items of plant carried on the books of the company as of July 31, 1911, were reclassified and thereafter were entered and have since been carried on the books in various plant accounts corresponding to the divisions by classes of property established by the inventory (there being certain adjustments made to carry forward the same amount as was previously carried on the books as representing the total book value). From year to year, since this reclassification of the plant accounts was made, gross additions to property have been added and retired property deducted from the plant accounts with the result that said accounts show the book values as of December 31, 1921, and December 31, 1922, respectively, as stated above.

The reproduction appraisal submitted by the company in the instant case was obtained by selecting the third, fourth and fifth items of the Byllesby and Arnold appraisal deducting therefrom displacements made between that date and July 31, 1919, and increasing the remainder by the ratio existing between price levels prevailing August 1, 1911, and July 31, 1919. Each subsequent annual addition has been similarly treated, *i. e.*, the ratio between the price levels for the year under consideration and July 31, 1919, was established and the additions of that year increased by the ratio so found. The reproduction new appraisal thus computed for the physical property was part of the evidence introduced in the previous proceedings and in the instant proceedings the appraisal of plant in service was similarly determined by bringing the 1919 appraisal to correspond with price levels prevailing December 31, 1921, by the application of percentages that the company's engineer deemed proper.

All other items have been appraised as hereinafter explained and a total reproduction value of $160,490,232 estimated, which has been summarized by counsel for respondent as follows:

1.	Right of way	$354,715
2.	Land	1,433,520
3.	Buildings	13,430,657
4.	Plant	98,636,764
5.	Engineering 2.64%	2,936,461
6.	Administration and legal 2.25%	2,500,253
7.	Liability, insurance, etc., 0.75%	834,222
8.	Taxes during construction 1.[illegible]%	1,666,220
9.	Interest during construction 8.60%	10,556,165
10.	TOTAL PHYSICAL PLANT	$132,348,977
11.	General equipment	1,117,801
12.	TOTAL PHYSICAL PROPERTY (reproduction cost new)	$133,466,778
13.	TOTAL PHYSICAL PROPERTY (less deterioration)	122,931,668
14.	Working capital (cash $3,000,000; supplies $246,260)	3,246,260
15.	Going value (incl. cost of establishing business, $18,405,209)	20,000,000
16.	TOTAL PROPERTY December 31, 1921	$146,177,928
17.	Net additions, 1922	8,292,869
		$154,470,797
18.	Construction work in progress Dec. 31, 1922	6,019,435
19.	TOTAL, December 31, 1922	$160,490,232

In this connection it is interesting to note that Sloan's estimate of cost of reproducing the plant in service as of July 31, 1921, was $109,988,325 and that for the same property but estimated on prices prevailing just five months later he estimated the reproduction cost thereof to be some $11,000,000 less. While this is not perhaps pertinent to the issue, it shows the lack of stability of the reproduction cost theory and the consequent danger of relying entirely thereon when determining the value of a property.

The value of land given in the above tabulation, $1,433,520 was ascertained by a real estate expert employed by the company in this case. He stated that this figure represented his judgment of the present fair market value of the land occupied and used by the company in telephone business. The reproduction value of the buildings was ascertained by a firm of architects who made the examination of each building and ascertain the reconstruction value of each as of December 31, 1921, and the figure set forth in the above tabulation is the total of the reproduction costs of each building used by the company. Each building was depreciated by the appraiser and the depreciated cost shown in the report.

Before discussing the overhead costs shown in the reproduction appraisal it is to be noted that the appraisal made in 1911 included certain overheads, and covered the items of organization expense, engineering, administration, legal ex-

penses, insurance and other expenses during construction. The book accounts at that date being shown in close agreement with the reproduction figures and the reproduction figures including the elements of overhead as above outlined, it is safe to assume that the book accounts contain practically the same figure of overheads as contained in the appraisal. While there is evidence of record to the effect that not all overheads were included during the early history of this company it is well to consider the fact that the books were not kept in such a way as to eliminate or deduct from plant account all worn out and discarded property as it was retired. It is to be noted, however, that in the discussion of overheads that the item of interest and brokerage which at that time was estimated to be $2,217,975 has been deducted from the appraisal of August 1, 1911, and therefore it is probable that little or no interest has been carried forward on the books.

The overhead items included in the reproduction appraisal are estimates made by the company's engineer of costs to be incurred if the physical property were to be reproduced as of December 31, 1921, and are made without consideration being given to the manner in which the property was actually constructed. Our inquiry therefore as to the propriety of these overheads must give consideration to two factors, first, the extent to which the structual costs include overheads, and second, the extent to which the estimated additional overheads are reasonable in light of the evidence in this case. The witness who presented this reproduction estimate on behalf of the company, W. F. Sloan, stated that a reasonable and conservative allowance for engineering during construction is five per cent of the specific construction expenditures but that inasmuch as the cost of additions as shown on the company's books include 2.36 per cent for this item he had added 2.64 per cent making an addition for engineering of $2,936,461.

Much discussion could be devoted to the other items of overhead as computed by this witness but inasmuch as this cost of reproduction is based upon a theory that in practice is never met it can only be said that the evidence as to overhead costs is opinion evidence and as such will receive the consideration to which it is entitled. The Commission cannot, however, under any circumstances agree with the assumptions made by the witness as to the length of time required to reproduce this plant and take on business, which assumption is responsible for the large item of interest during construction of $10,556,165. In the first place, this witness assumes

that the cost of money to this company with which to construct this plant would be eight per cent per annum and that the full amount required for the construction program of each year would be on hand at the beginning of each year and that the funds would be deposited about one-half year earning three per cent per annum. The witness assumes that a construction period of nine years would be necessary but the most violent assumption here made is that four years' construction work requiring an expenditure of some $40,000,000 would have to be completed before any of the plant is placed in operation and earning money. The reproduction theory assumes that the City of Chicago, would at the beginning of the theoretical construction program, have no telephone service and it cannot be considered as reasonable that it would require four years construction before any service was given.

It would appear more reasonable to assume that construction would be started in the downtown portion of the city, and that service would be rendered from a single exchange at the earliest possible date and that to do this would require a much less time than four years. Other exchanges would be built in the territories more thickly populated until the outlying territory was served. We are not prepared to say just how long it would take to reproduce the entire plant as it now exists but it cannot be conceived that four years would elapse from the date of initial construction before telephone service would be received in the City of Chicago. The Commission, therefore, does not consider this estimate of interest during construction reasonable and in its findings of a reproduction valuation will take this point into consideration. The Commission will further take into consideration the fact that the interest rate as used by the company's witness is in excess of that which this company has ever had to pay.

In many cases previously decided by this Commission allowances for overheads on a reproduction valuation of 15 per cent of the specific construction costs have been sustained. In this particular case, however, consideration must be given to the manner in which this reproduction valuation has been built up and that the structural costs now include certain items ordinarily included in overhead costs. It must also be remembered that the basic figures from which this valuation was compiled are the recorded costs of completed construction and that the cost occasioned by any contingencies of construction have thereby been recorded. Furthermore,

the valuation is not based upon an inventory made in the field and there is no possibility of having omitted items of property in making this valuation. Therefore the items of omissions and contingencies that are usually considered in overhead costs on a reproduction valuation are not to be considered in this case. It therefore appears to this Commission that a fair and reasonable allowance to cover the items of cost incident to the construction of the property under the reproduction theory in this case is 12 per cent in addition to the structural costs as estimated by the company and hereinabove set forth.

The original cost of the property can be ascertained fairly accurately from the book value although there are certain inclusions in the plant account that preclude an exact determination of the cost. By reason of the method used in charging off equipment that has been returned to the Western Electric Company for rebuilding and the subsequent addition to the plant account when the same equipment is reinstalled, it appears that some unwarranted increase of the book value has resulted. Furthermore, it appears that the book value now includes some overhead charges but that others have not been properly charged thereto. There is evidence of record to indicate that some costs of an overhead nature have previously been charged to operating accounts instead of to plant account. While this is an erroneous procedure it does not warrant the Commission in eliminating them from consideration when finding the original cost of the existing property. The plant account does contain certain items of overhead as hereinabove shown but it cannot be accurately ascertained how much has been so included. The records of the company show that for the last three years the amount of interest charged to construction account has averaged something less than two per cent. Prior to 1920 no interest was charged to plant account and therefore it is necessary to add to the plant account prior to that time a proper allowance for this item. In so doing, however, it is necessary to give consideration to the fact that a substantial part of the company's investment is in station apparatus, station installations, and general equipment, and that the investment therein is made immediately prior to the time when it becomes used and useful property and that therefore no interest is accrued thereon. An additional allowance for engineering, which has been charged to operating accounts, should be made, together with certain items for administration and legal expense that have also

not properly found their way into plant account. The findings made hereinafter for the original cost of the property will include an allowance for overhead in addition to that already included in plant account.

In determining the proper allowance for overhead on original cost as compared with that allowed on reproduction it is to be remembered that the original cost overhead allowance is intended to reflect that money actually and necessarily spent in constructing the property and that the conditions under which the property was constructed are entirely different from the theoretical conditions assumed in building a reproduction cost valuation. This eliminates from consideration largely the item of taxes during construction where the property is not standing idle a sufficient length of time to accrue taxes before being placed in operation. It also gives consideration to the fact that the item of liability insurance is of recent origin and that in prior years damages were taken care of and probably charged through plant account. Furthermore the record in this case does not show that exclusive of interest during construction and engineering all other items of overhead have not been properly included in plant account.

Working Capital.

The order entered by the previous Commission authorized working capital in the amount of $2,000,000. In the instant proceeding the company represents that this allowance is not sufficient and that an amount of $3,000,000 in cash is necessary and $246,260 in material and supplies.

Certainly there is a necessity of an allowance for working capital by reason of the fact that a sufficient sum must be on hand to efficiently conduct the business of the utility. This Commission believes that some increase over the allowance made by the former Commission is justifiable but questions the necessity of the entire amount as claimed by the company. In this utility the revenues are coming in constantly throughout the month from coin boxes and other sources so that the total operating expense is at no time much in excess of the incoming revenue. The finding as to the amount of cash working capital, material and supplies as hereinafter made is in view of the operating expenses, the manner in which the revenues are derived and the magnitude of the business conducted.

Going Value.

Under the theory advanced by the company for reproducing the physical property there is also included a determination of the cost of reproducing the business and which forms a substantial part of the company's claim for going value. It is noted that in the summary of the evidence on value as submitted by the company there has been included some $20,000,000 as going value. This amount has been detailed in the record and is made up in the following manner:

Cost of reproducing the business:

Training operators	8,325 @ $260	$2,164,400
Training maintenance force	1,255 @ $340	426,700
Training commercial & other forces	707 @ $260	183,820
Development of methods and forms	1,750 @ $100	175,000
Publicity and subscriber service	605,495 @ $ 4	2,421,980
Initial cost of directory	605,495 @ $000.60	363,297
Fixed charge on plant in excess of normal		12,670,093
		$18,405,290
Additional going value (p. 1402 of transcript)		1,594,710
Total going value		$20,000,000

The theory under which the cost of reproducing the business is estimated, assumes that it is necessary to train the operators, maintenance, commercial and other forces, develop methods and forms, spend money for publicity and print a directory, and the estimated cost of all of these items is shown in detailed amounts above. While this may be a theory worthy of consideration as to what it would cost to duplicate this business if none now existed yet it cannot be considered by the Commission as conclusive evidence as to the going value of the property.

As the Commission understands going value it is that value which accrues to a property over and above its physical value by reason of the fact that it is a going concern and is capable of earning money under reasonable rates. It is true that the courts have considered as evidences of going value such matters as cost of reproducing the business and the early losses incurred in establishing the business. The record in this case indicates that this company has suffered no losses in establishing its business but rather has earned substantial returns practically since its inception. As to the evidence here presented it is clear that the items above enumerated have in every instance been charged to operating expense and that the company has been fully reimbursed therefor. The re-

maining item designated as fixed charge on plant in excess of normal which amounts to $12,500,000 is a purely hypothetical computation and is purported to represent the fixed costs on the unused portion of plant immediately after the initial construction is placed in operation. If a fair return is to be allowed on the existing property which has capacity beyond its present needs it would appear that to give consideration to the same item in going value would be in effect allowing a double return.

In the last analysis the Commission is of the opinion that the determination of going value is a matter lying peculiarly within the province of the Commission and that it is not susceptible of determination by formula but is to be arrived at by the exercise of reasonable judgment in view of all the circumstances surrounding the case.

The former Commission allowed $4,196,872 over and above the costs of physical property and all other elements of value and designated this as going value. This Commission sees no reason for departing from that finding nor can it consider that any such increase in the going value of this property between the finding in that order and the date of submitting evidence by the company in this case has occurred as would be represented by the difference between that finding and the company's claim. Furthermore, under the finding of the previous Commission it was contemplated that the company would earn 7.9 per cent return upon the value fixed by that Commission and the record in this case discloses that the earnings have been somewhat higher. It would therefore appear that any expense that may have been incurred to create an additional going value since that order was entered has been fully compensated for in the company's increased income.

Construction Work in Progress.

The company introduced an exhibit purporting to show that the construction work in progress on December 31, 1922, was $6,019,435, as shown in the reproduction cost valuation above. No supporting details were offered and in view of the company's accounting methods it cannot be assumed that the total as given should be included in a rate base. This is by reason of the fact that in the past, over the last six years, construction work in progress at the end of the calendar year was 1.4 times the net additions eventually carried into capital account. In other words, by reason of the construction

work there will be certain retirements and inasmuch as the amount of retirements that accompany the construction work in progress is not shown the Commission will assume that the same ratio here prevails as had prevailed in the past and will allow in the rate base for construction work in progress an amount of $4,250,000.

Depreciation.

The record in this case shows that the Illinois Bell Telephone Company has accrued, for its Chicago property, a depreciation reserve of $26,084,610. The record further shows that this sum of money has been invested in property and that the property so acquired is reflected in the figures given hereinabove showing the book value and reproduction cost of the property.

Counsel for the city contends that the amount of reserve is excessive and further that the reserve having been invested in property, the amount of it should not be given consideration in determining the rate base in this case. The city further contends that there should be subtracted from the reproduction cost figures a sum of $39,965,035, which is obtained by applying the same percentages to the actual reserve as the company applied in its appraisal to bring its book values up to present day price levels.

The company's witnesses on valuation of the property stated that the physical condition at the present time is about 92 per cent of its condition when new. This would indicate that in the judgment of the company its property is in excellent condition. In other words, the property has depreciated some 8 per cent as testified to by the company's witnesses, which when expressed in terms of the original cost of the depreciable property, would mean that there has been a lessening of worth to the extent of $6,425,000.

The amount of money that the company has spent to maintain its property as compared to the amount of property in existence should give some index as to the future requirements of this company and a test of the reasonableness of the reserve now on hand. The Commission's accountant, W. M. Hammond, has analyzed the maintenance accounts and the charges to depreciation reserve as shown on the company's books and compared the charges so made with the plant account. The following tabulation sets forth the facts:

Maintenance and Depreciation Tabulation.

Charges and Credits to Reserve.

Statement showing ratio that the amount reserved for depreciation, amount charged to the Depreciation Reserve, and balance in the Depreciation Reserve, bear to the Plant and Equipment account for the years 1911 to 1922 inclusive.

Year ended Dec. 31.	Amount reserved for depreciation. Amount	Per cent of Plant	Charges to Depreciation Reserve. Amount	Per cent of Plant	Balance in Depreciation Reserve December 31st. Amount	Per cent of Plant
1911	$1,401,052	4.83	$327,783	1.13	$4,245,632	14.63
1912	1,584,214	4.83	866,646	2.64	4,963,201	15.14
1913	2,293,953	5.83	1,041,264	2.75	6,215,890	16.44
1914	2,613,552	5.98	1,456,801	3.33	7,372,641	16.87
1915	2,664,271	5.58	1,600,286	3.35	8,436,626	17.67
1916	2,886,880	5.53	1,336,186	2.56	9,987,120	19.13
1917	3,222,376	5.53	1,292,111	2.22	11,917,386	20.46
1918	3,160,295	5.01	581,557	.92	14,496,124	22.98
1919	3,464,709	5.17	610,809	.91	17,350,024	25.90
1920	3,497,006	4.83	547,417	.76	20,299,613	28.02
1921	3,457,721	4.47	611,573	.79	23,145,762	29.91
1922	3,832,932	4.47	894,084	1.04	26,084,610	30.44
Summary						
Average per year						
6 years, 1911-1916	2,240,620	5.53	1,104,828	2.72	.....	....
6 years, 1917-1922	3,439,173	4.87	756,258	1.07	.....	....
12 years, 1911-1922	2,839,897	5.11	930,543	1.67	.....	....

The above tabulation shows that the charges to depreciation reserve from 1911 to 1922 have in no one year exceeded 3.35 per cent of the plant and equipment accounts. Furthermore the period covered by this table, 12 years, is greater than the average life of the property as claimed by the company.

Ordinary maintenance is charged directly to operating accounts under the accounting methods the company purports to follow. It is therefore necessary to show the maintenance charges over a similar period, which charges combined with the charges to depreciation reserve, will give the total money spent by the company in maintaining its property in its present good condition. The following tabulation sets forth these facts:

Maintenance and Depreciation Tabulation.

Charges to Maintenance and to Reserve.

Statement showing ratio of maintenance expenses and ratio of net charges to Reserve for Depreciation to the Plant and Equipment account for years 1911 to 1922 inclusive.

Year ended Dec 31.	Plant and Equipment Dec. 31st	Total maintenance Expenses (excluding Depreciation) Amount	Per Cent of Plant	Reserve for Depreciation Net charges to Amount	Per Cent of Plant	Total of columns 3 and 5
	(1)	(2)	(3)	(4)	(5)	(6)
1911	$29,020,154	$2,077,605	7.16	$327,783	1.13	8.29
1912	32,783,768	2,201,466	6.72	513,321	1.57	8.22
1913	37,813,741	2,171,216	5.74	1,041,264	2.75	8.49
1914	43,696,957	2,284,727	5.23	1,456,801	3.33	8.56
1915	47,745,036	2,295,295	4.81	1,600,286	3.35	8.16
1916	52,206,517	2,392,604	4.58	1,336,186	2.56	7.14
1917	58,245,754	2,781,104	4.77	1,292,111	2.22	6.99
1918	63,093,421	2,674,600	4.23	581,557	.92	5.16
1919	66,990,915	3,225,693	4.82	610,809	.91	5.73
1920	72,449,926	4,058,658	5.60	547,417	.76	6.35
1921	77,394,946	4,827,958	6.24	611,573	.79	7.03
1922	85,687,816	5,089,705	5.94	894,084	1.04	6.98
Summary						
Average per year						
6 years, 1911-1916	40,544,362	2,237,152	5.51	1,045,940	2.58	8.09
6 years, 1917-1922	70,643,796	3,776,286	5.34	756,258	1.07	6.41
12 years, 1911-1922	55,594,079	3,006,719	5.41	901,099	1.62	7.03

In the above tabulation it appears that the average charges per year for the 12-year period to maintenance accounts and to depreciation reserve have been 7.03 per cent of the average plant account. The table further shows that at no time has the sum of these two charges in any one year exceeded 8.56 per cent of the plant and equipment account of that year. The above table takes into consideration only the property of the company located and used in the City of Chicago which is about 80 per cent of the total property of the company. For the entire property, the record shows the average of the maintenance charges and charges to depreciation reserve for the 10-year period ended 1922 was 6.96 per cent of the plant account and that for the 30-year period ending the same date the charges average 7.81 per cent of the plant account.

By the experience of the past we gained some idea as to what may be required in the future. The record shows in this case that the average life of the property is increasing

and that retirements now occasioned by obsolescence and inadequacy are not so great as in the earlier history of the company. Considering these facts and other matters set forth in the record it is clear that the future requirements for the upkeep of the telephone property in Chicago will not be as large a percentage of the plant account as they have been in the past.

Referring back to the conditions in existence on August 1, 1911, the starting point for most of the evidence on value in this case, the record shows the property then in existence had depreciated 21.95 per cent and that the depreciation reserve at that time was but 14.63 per cent of the plant account as of that date. Making the comparison of these same factors as of December 31, 1922, shows that the condition is reversed for at the later date the depreciation reserve was 30.44 per cent of the plant account, that the plant was depreciated 7.50 per cent and that the reserve over the depreciation was 22.94 per cent. These facts are shown in the following tabulation:

Appraisal of 8-1-11.

	Reproduction New	Depreciated
Plant	$24,170,760	$18,418,120
Buildings	2,642,405	2,253,976
Land	1,173,937	1,173,937
Total	27,987,102	$21,846,033
Depreciation (p. 19 of Exh. 1, Sec. 3)		21.95%
Depreciation reserve at 12-31-11		4,215,632
Depreciation reserve at 12-31-11		14.63%
Depreciation reserve less actual loss of value indicated at August, 1911		7.32%
Depreciation reserve at Dec. 31, 1922		30.44%
Depreciation of property at Dec. 31, 1922, using per cent as per Rhodes' and Renwick's testimony and computing on entire plant (same basis as used to obtain per cent of 30.44 at Dec. 31, 1922)		7.50%
Excess of reserve over depreciation loss at Dec. 31, 1922		22.94%

The above figures indicate that since August 1, 1911, the company has overcome a shortage in reserve then existing and has created an excess over the actual loss in value as estimated by its engineer. It would therefore seem pertinent to inquire as to the manner in which this condition has been brought about.

Generally speaking, this large reserve has been built up

by annual additions that are in excess of that required. The proof of this statement is evident when it is remembered that the property has been maintained in excellent condition and the company still has $26,000,000 in its depreciation reserve. This is approximately twice the amount charged against the reserve since this company began keeping a reserve for retirement of property. This is without regard to the amount taken out of the reserve to pay stock dividends aggregating $3,600,000.

The details as to how this large reserve has been built up will require a rather lengthy explanation. One example shown clearly in this record is the manner of accruing depreciation on station apparatus. The company has adopted what is known as a straight line method in all its depreciation accounting and for station apparatus has determined as a basis that the life of such apparatus is five years and that the salvage to be realized from such apparatus at the end of its life is 65 per cent. By the use of these factors the company has built up as of December 31, 1922, a depreciation reserve amounting to $3,991,467 or 51 per cent of the investment which was at that date $7,825,805.

The facts disclosed by the record are that the actual salvage received on station apparatus for the 11-year period ended 1922 was 92 per cent of the cost of such apparatus; that the lowest salvage realized was 79 per cent in 1912 and the highest was 100 per cent in 1922. This clearly indicates that the company's estimate of 65 per cent salvage value is too low. The importance of establishing a correct estimate of salvage is well illustrated by the fact that a proper estimate would have made a difference in the annual depreciation charge of $442,593. The record further shows as a matter of fact the life of station apparatus is in excess of five years and it appears that 6.8 years is the most accurate estimate of the life of station apparatus in one location. Use of the proper life would have still further reduced the annual depreciation charge for this class of equipment. Other instances of a similar treatment of other classes of property appear of record, but a discussion of them in detail is not necessary at this time.

As stated above, the company claims that it is using the so-called straight line method in determining the proper allowances for depreciation which method requires a knowledge of the average life of various units of property and the salvage values thereof. The record reveals, however, utter lack of provisions in the company's records for keeping such

data as would make possible an accurate application of straight line method. From both the evidence of the company's witnesses and the Commission's accountants it appears that there is no data resembling life tables in the possession of the company and that the company even rejects its own records showing what salvage amounts to. Nevertheless, counsel for the company has argued strenuously that the accounting rules provide the specific method which the company advocates for ascertaining the annual charge for depreciation and further argues that the company is subject to heavy penalties if such rules are not strictly followed. However, the record in this case shows many instances in which the company has departed from the accounting rules in matters involving some millions of dollars. In fact, the company has declared stock dividends from depreciation reserve and has changed its method of charging for overheads when it was deemed advisable by the executives of the company. The Commission is not at all convinced that the accounting rules which this company claims to hold inviolate have been so held by the company in the past and that the accounting rules in themselves require such accounting as the company has been insisting is proper.

The result of following these rules is clearly manifest. The company has built up a reserve of $26,000,000 over and above that necessary to adequately maintain its plant and the subscribers have paid this $26,000,000 to the company and the company has used it in building additions to property and have made no credits for interest to the fund contributed by the consumers. It would seem that simple justice would demand the use of a scheme whereby the moneys collected by the company from the consumers for depreciation reserve, the ultimate purpose of which is to replace the property when it is withdrawn from service, would be to credit such funds with its interest earnings. Under the general scheme followed by the company to accrue $1,000 in 10 years time requires an annual contribution of $100. Under the scheme which gives credit to the reserve for the interest earnings thereof the annual contribution of the consumer will be $79.50, a fact which is illustrated by the following tabulations:

Sinking Fund Method

Assumptions:
Investment .....$1000.
Service life .....10 years.
Interest .....5 per cent

	Value of Investment at end of each year	Annual Charges to Operating Expenses	Interest Accumulations	Depreciation Accruals
End of—				
1 year	$920.50	$ 79.50	$.....	$ 79.50
2 years	837.02	79.50	3.98	83.48
3 years	749.36	79.50	8.16	87.66
4 years	657.33	79.50	12.53	92.03
5 years	560.69	79.50	17.14	96.64
6 years	459.22	79.50	21.97	101.47
7 years	352.67	79.50	27.05	106.55
8 years	240.80	79.50	32.37	111.87
9 years	123.33	79.50	37.97	117.47
10 years	.....	79.50	43.83	123.33
Total		$795.00	$205.00	$1,000.00

It will be noted that the total equal annual charges for depreciation for the life period is $795, or $205 less than is actually required to retire the property, and that the total interest accumulations for the same period are $205, which if added to the direct contributions represented by the annual charges will equal the amount of the property investment.

Straight-line Method

Assumptions:
Investment $1000
Service life ..... 10 years

	Value of investment at end of each year	Depreciation charged to operating expenses
End of—		
1 year	$900	$100
2 years	800	100
3 years	700	100
4 years	600	100
5 years	500	100
6 years	400	100
7 years	300	100
8 years	200	100
9 years	100	100
10 years	100	100
Total		$1,000

From the examination of this record it is quite apparent that the company's method of accruing for depreciation is

either illogical or wrongly applied. It is true that any business requires a reserve from which moneys can be provided to take care of expenses which must be met at some future date. This is the usual method of accruing for taxes. The fact that accruals are necessary, however, is no reason for excessive accruals and it would seem that sound business judgment would dictate that in view of the investment in property devoted to telephone service in the City of Chicago, in view of the total annual requirements to maintain this property, both for replacements and current maintenance as exhibited by the books, that a sum substantially less than $26,000,000 would be adequate to fully protect the investment in the property now in existence.

By reason of the company's methods it has been able to accumulate a reserve of $26,000,000, the interest earnings on which have not been credited to the reserve, but the entire reserve, which has cost the company nothing, has been invested in plant. It, therefore, appears that the company has not only collected excess amounts from its consumers to provide depreciation, but has not credited to the depreciation reserve the interest earnings either on that which was necessary or that which has been collected. Had proper methods been followed the charges to the consumer would have been materially less. These facts demand that in determining the rate base upon which the company should be permitted to earn a return, the $26,000,000, which has been contributed by the people, should not be included in that base. Even then entire justice to the consumer is not afforded, if consideration is given to the result that would have been obtained under a reasonable method. The order entered by the prior Commission under date of December 20, 1920, shows that the company suggested the deduction of the then existing depreciation reserve before determining a rate base, which suggestion was followed, and this Commission sees no reason for departing from this procedure.

Future requirements for maintenance and replacements.

The discussion hereinabove given under depreciation clearly indicates that the property has been very satisfactorily maintained by an annual expenditure of something less than 8 per cent of the average plant account for the 12-year period ended 1922 and as also above shown the entire property of this company has, over a 30-year period, required 7.81 per cent of the plant account to cover charges to maintenance and

the depreciation reserve. This is an excellent index to the future requirements of this company, but there are other factors at work that will tend to make these future requirements less than the past. From past experience the company is enabled to more intelligently forecast the plant requirements in advance of construction. Obsolescence will also have a reduced effect in the future years by reason of the advance in the art and design of telephone equipment so that the property now installed will have a longer life in service than the property installed during the earlier and more experimental stages of this business. In this connection it is to be remembered that machine switching has been recently introduced and further installations may follow. The company may argue that this will replace the present manual boards before the end of their useful life and thereby make necessary an increased allowance for depreciation.

There may be two main reasons advanced for the introduction of machine switching, one is, the increase in the quality of the service and the other, a reduction in the cost of operation. Those subscribers who will receive the advantages of better service should be the ones to pay any additional costs, if any, which may be incurred in making the change. If economies in operation however are the objectives sought, the added cost of amortizing such equipment as is displaced should be absorbed in the rates after the change is made. It is quite conceivable that the economies to be secured will within a reasonable time absorb whatever loss, if any, is occasioned in making the change. The general principle that we adhere to is that the present subscriber should pay the cost of his service but should not be called upon to pay the cost of making changes for the purpose of accommodating additional subscribers or of benefiting the subscriber of some future period.

Returning to the question of future allowances for maintenance and replacements we find and the record shows, that the company does not possess the information that would permit this Commission to make a finding as to the proper annual requirement to cover depreciation when it is considered separate from maintenance. We do have an excellent ground upon which to forecast what the combined maintenance and retirement requirements will be. It has been argued by the company, however, that the property is growing rapidly and that therefore the past record of upkeep, measured in terms of book value, would not give a proper indica-

tion of the future requirements if the plant ceased to grow. This may be true, but the property has for many years shown a fairly consistent growth of about 10 per cent per year and there is no reason disclosed for expecting a less rate of growth. Should the plant cease to grow, however, the way is always open for reveiwing the entire subject and making whatever modifications are necessary. One of the causes that have operated to increase maintenance cost in the past has been what is called inadequacy, *i. e.*, retirement of property before fully worn out because the growth in demand required larger facilities. A slackening in growth, if experienced, must inevitably lessen this kind of maintenance or upkeep cost. There are other factors that would have to be considered under such changed conditions, speculation concerning which is idle at this time.

For the reasons here stated the Commission will depart from the method employed by the company and will in its findings provide a combined maintenance and replacement allowance which is adequate and sufficient in the judgment of the Commission to fully protect the investment in this property and permit the company to accrue a reserve in the anticipation of property retirements. The Commission does not deem it advisable to restrict the allowance to that which experience has shown is barely necessary, for such action might result in unnecessary economies on the part of the company with a corresponding decrease in the quality of the service to the consumer.

The prior Commission in its order of December 20, 1920, fixed an annual depreciation allowance of $2,000,000. The company has, however, set up on its books an annual depreciation charge of a larger amount than found by the former Commission, and this fact will receive such consideration as the future may require. If the sum of $2,000,000 be added to the then current maintenance charges, it gives a figure that is approximately 8 per cent of the plant account then recorded. In the findings hereinafter the Commission will base its maintenance and depreciation allowance upon the book value of the property as of December 31, 1922, $85,689,816, which includes the property acquired by use of the depreciation reserve of $26,084,610, but is exclusive of work in progress. The work in progress and all additions made subsequent to December 31, 1922, will have a maintenance and replacement allowance provided on a separate basis as hereinafter found.

Rate of Return.

The question as to what is a fair rate of return depends upon the conditions existing at the time the rate is fixed. Consideration should be given to the locality in which the utility operates, the risk it involves in conducting its business, its financial strength, and the existing demand and rates of money.

The record of this case contains an exhibit which shows that the average yield on public utility bonds and notes has decreased between November, 1920, and April, 1923. In November, 1920, the average rate was 7.82 per cent, and in April, 1923, the average rate was 6.19 per cent. This shows that since the former Commission fixed the fair rate of return for this company at 7.9 per cent there has been a decline in the yield on securities. This is not to say, however, that this Commission would be justified in reducing the rate of return accordingly, but the trend of the rates earned on money should be considered.

Another fact that must receive consideration is the ability of this company to borrow money. Recently the Illinois Bell Telephone Company floated $50,000,000 of its 5 per cent bonds and the cost to the company of this money was 5.6 per cent per annum after amortizing discount and expense.

Revenues and Expenses.

In order to present a comprehensive view of the company's operation during the past year the following table, including revenues and expenses, is presented:

Income:	
Subscribers' station revenues	$30,600,014
Other exchange service revenues	3,221,019
Toll service revenues	2,655,988
Miscellaneous operating revenues	665,317
License revenue—Dr.	1,606,810*
Miscellaneous income	483,678
Total income	36,019,206
Operating expenses and deductions from income:	
Current maintenance	$ 5,089,705
Depreciation	3,739,870
Traffic	11,985,406
Commercial	3,986,118
General and miscellaneous	1,076,454
Taxes (Accounts 305 and 322)	3,278,006
Rent expense and miscellaneous deductions	223,560
Total deductions	29,379,119
Net income available for return on investment	6,640,087

Restating net income to put it on the basis allowed by Public Utilities Commission in its order of Dec. 20, 1920, by adjusting depreciation allowance and Licensee Revenue—Dr., the results are as follows:		
Net income, as above		$ 6,640,087
Excess depreciation charge	$ 1,083,682	
Excess Licensee Revenue—Dr.	313,436	1,397,118
Net income as adjusted		$ 8,037,205
Rate base at end of year per P. U. C. order $8,037,205 is 10.35% of the above rate base		$80,514,474

The revenue of $30,600,014, above shown for Subscribers' Station Revenue, is that revenue received from subscribers of the various classes of service in the City of Chicago for the full year of 1922 under rates authorized by the previous Commission in its order of December 20, 1920. The item noted as Other Exchange Service Revenues is made up largely of revenues from public pay stations. Toll Service Revenues, as the name indicates, is that revenue received from toll calls and is largely received as toll commission from the American Telephone and Telegraph Company.

The record in the present case shows that there is a considerable amount of toll business originating within the City of Chicago which is transmitted over the lines of the American Telephone and Telegraph Company. The Chicago Division of the Illinois Bell Telephone Company receives 17 cents per message on all messages of this kind originating in the City of Chicago. The record also shows that the company receives no compensation in the form of a terminating commission for messages coming from the American Telephone and Telegraph Company which terminate in the City of Chicago. The company claims that the 17 cents is intended to be full compensation to the Illinois Bell Telephone Company for services performed in connection with incoming messages as well as outgoing messages, although it is computed only on outgoing messages. The Illinois Bell Telephone Company, besides receiving the 17 cents per message, receives rental from the American Telephone and Telegraph Company for certain property owned by the Illinois Bell Telephone Company and used exclusively by the American Telephone and Telegraph Company. Besides this, the American Company is billed for expenses incurred by the Illinois Bell Telephone Company in connection with the operation of said property used exclusively by the American Company.

The 17 cents originating commission which is paid to the Illinois Bell Telephone Company is the only compensation

which this company receives for the use and operation of its exchange property in connection with the calls sent or received over the lines of the American Telephone and Telegraph Company. The record shows that the 17 cents commission was determined in 1910 from a study made at that time of the cost of performing this service. Since that date the cost of operation and cost of plant used has increased, and the record also shows that both the American Company and the Chicago Company have increased their telephone rates to a considerable extent within this period of time.

The Commission believes that this matter should be fully investigated and an equitable adjustment made to the end that a greater part of the toll charges be paid to the Illinois Bell Telephone Company. There are not sufficient facts in this record to permit of making a proper adjustment and in this order the Commission will estimate revenues from such source on the basis now in effect.

The next item in the income account as set up hereinabove that should be discussed is the entry for Licensee Revenue Dr. in the amount of $1,606,810. This is the amount paid by the Chicago Division of the Illinois Bell Telephone Company to the American Telephone and Telegraph Company for services rendered and rental on transmitters, receivers and induction coils owned by the latter company and used by the Illinois Bell Telephone Company. These prices of equipment are a part of the subscribers' sets and are used every time a telephone call is made.

The record shows that the American Telephone and Telegraph Company owns about 98 per cent of the stock of the Illinois Bell Telephone Company. The so-called licensee contract between the American Telephone and Telegraph Company and the Illinois Bell Telephone Company was not made between corporations dealing at arm's length but was made between the principal company and its subsidiary. Because of the overwhelming stock ownership by the American Telephone and Telegraph Company in the Illinois Bell Telephone Company and the consequent domination of the Board of Directors of the Illinois Bell Telephone Company it can hardly be said that the so-called contract was made between separate parties. In view of these facts this Commission may well question whether or not the Illinois Bell Telephone Company receives services in proportion to the amount it pays to the American Telephone and Telegraph Company. There is no evidence in the record to show the

cost to the American Telephone and Telegraph Company of the services rendered to the Illinois Bell Telephone Company. The Commission believes from all the circumstances surrounding the payments made by the Illinois Bell Telephone Company to the American Telephone and Telegraph Company and the services rendered by the latter to the former, and the cost thereof, should be at some time fully investigated, to the end that charges for the services may be properly established. The present record does not contain sufficient information to warrant this Commission in departing from the findings of the previous Commission in respect to the payments that should be made by the Illinois Bell Telephone Company to the American Telephone and Telegraph Company. The previous Commission found that payment by the Chicago Telephone Company to the parent company of $2.10 per station was sufficient to cover the value of the services rendered. It is certainly more equitable to base the charges for services rendered on the number of stations rather than on the gross revenue because any change in revenues results in a change in payments to the parent company, and would be made without respect to the services rendered.

The following tabulation shows expenses for the last two calendar years and those that have been incurred by this company since the existing rates were fixed:

Operating Expenses

	1921	1922
Maintenance Expense	$ 8,197,807	$ 8,829,575
Traffic expenses	11,188,196	11,985,406
Commercial expense	3,836,604	3,986,118
Gen'l and misc'l expenses	958,573	1,076,454
Total	$24,181,180	$25,877,553

Maintenance expense has been discussed fully hereinabove in connection with depreciation and no further discussion is here necessary, except to say that the figures above shown include the charge as made by the company for depreciation which is in excess of that fixed by the Public Utilities Commission.

Traffic Expense, shown in the above statement, is composed of the major items shown below:

Item	1921 Amount	1921 Average Cost per Station	1921 Average Cost per Call	1922 Amount	1922 Average Cost per Station	1922 Average Cost per Call
Superintendence	$ 536,780	$.....	$.....	$ 560,194	$.....	$.....
Operators' wages	8,386,944	14.22	.010	9,019,928	14.65	.009
Rest & Lunch R'ms.	780,000			741,684		
Operators' Sch'l'g.	309,666			373,552		
Other Traffic Exp's.	1,174,806			1,290,048		
Total	$11,188,196	$18.97	$ .014	$11,985,406	$19.46	$ .013

The above table shows that although the total Traffic Expense for the year 1922 has increased approximately 7 per cent over that of 1921, the per station traffic expense was but 2½ per cent higher. The average cost per call was about 9 per cent lower in 1922 than in 1921, and this fact is probably explained by the increased number of calls made by subscribers. The record shows that there is an opportunity for further reductions of the traffic cost by reason of the fact that the four-party lines of this company do not exceed three stations per line. As additional stations are added existing lines can be served at a less cost per call. The Commission, however, will make no reduction in its allowance for Traffic Expense in anticipation of this possibility, but will provide a sufficient sum over the 1922 expense to take care of the additional lines that the normal growth of this property indicates will be connected.

The next class of expense is known as Commercial Expense and includes items as shown in the following statement:

Item	1921 Amount	1921 Average Cost per Station	1921 Average Cost per Call	1922 Amount	1922 Average Cost per Station	1922 Average Cost per Call
Advertising	$107,573	$.....	$.....	$105,214	$.....	$.....
Rev. accounting	663,249	$.....	$.....	627,524	$.....	$.....
Rev. collecting	761,031	$.....	$.....	796,261	$.....	$.....
Directory Exp.	763,000	$.....	$.....	789,000	$.....	$.....
Pay stations comm's.	821,172	$.....	$.....	883,027	$.....	$.....
Other expenses	720,579	$.....	$.....	785,092	$.....	$.....
Total	$ 3,836,604	$6.50	$.005	$ 3,986,118	$6.47	$.004

It is to be noted in the above detailed statement that the cost of advertising is charged to this account. This includes the cost of advertising for long distance toll business, from which the American Telephone and Telegraph Company profit

to some extent. No part of this advertising cost is contributed by the American Telephone and Telegraph Company. It would appear reasonable that some part of this cost should be borne by the American Telephone and Telegraph Company, but there are not sufficient facts in this record to permit the Commission to make any adjustment of this account at this time.

General and Miscellaneous Expenses include such items of expense as salaries and expenses of general officers, general office clerks, general office supplies, legal services, insurance and expenses arising from accidents and damages. This account also includes the expense of the Relief Department, pensions, and other miscellaneous expenses. The following shows the main divisions of general expenses for 1921-1922:

Item	1921 Amount	1921 Average Cost per Station	1921 Average Cost per Call	1922 Amount	1922 Average Cost per Station	1922 Average Cost per Call
Gen'l office salaries..	$240,420	$.....	$.....	$262,625	$.....	$.....
Relief Department and Pensions	390,300	$.....	$.....	428,657	$.....	$.....
Other expenses	327,853	$.....	$.....	385,172	$.....	$.....
Total	958,573	$1.63	$.001	$1,076,454	$1.75	$.001

In 1922 the company incurred an expense of $81,961 by reason of the strike on the surface and elevated lines which made it necessary for the company to provide other means of transportation for its employes. The expenses of 1922, also include Rate Expense of $18,077. The last two mentioned items are not met with every year and some consideration will be given to this fact by the Commission in its findings.

In considering operating expenses it is to be remembered that much of the material used by the Illinois Bell Telephone Company in the operation of its property is purchased from the Western Electric Company. The record shows that the American Telephone and Telegraph Company own about 98 or 99 per cent of the stock of the Western Electric and the Illinois Bell Telephone companies. The parent company can dictate prices which the Western Electric Company may charge and the Illinois Bell Telephone Company must pay for these materials. Here again we have two corporations who are dealing with one another not at arm's length. There is not sufficient evidence in this record to pass upon the question as to whether or not the Illinois Bell Telephone Company

purchases from the Western Electric Company its necessary materials and supplies at a fair cost. Certainly, it can be said that in view of the relationship here existing, transactions between these two companies would require close scrutiny in order that no unjust advantage may be taken by the controlling company. The Commission believes that this question will probably be further investigated, but at this time it is not taking into consideration the relationship existing between the companies in determining the proper allowance for operating expenses.

The Commission in its findings hereinafter, will include a sufficient allowance to cover all the taxes paid by this company to all governmental bodies. The fact that the company in the year 1922 made an over-accrual for taxes pertaining to a prior period will make necessary some adjustment of the 1922 taxes when using this as a basis for forecasting taxes for an ensuing period. It is to be noted that the Chicago Telephone Company pays to the City of Chicago, under the ordinance provisions, 3 per cent of its gross revenues and that any adjustment of rates will carry with it a change in the amount of payment to be made to the City of Chicago.

The Commission having considered the record adduced, representations and arguments made and being fully advised in the premises finds as follows:

(1) That is has jurisdiction of the parties and subject matter of the above entitled cause;

(2) That the original cost as of December 31, 1922, of the property used and useful in the rendering of telephone service in the City of Chicago and exclusive of working capital, materials and supplies, work in progress and going value, but including overhead, is $90,687,816;

(3) That the reproduction cost new of the property used and useful in the rendering of telephone service in the City of Chicago, exclusive of working capital, materials and supplies, work in progress and going value but including overhead as of December 31, 1922, is $128,769,000;

(4) That the property as it now exists is in at least 90 per cent condition;

(5) That the amount of construction work in progress that will eventually be included in capital account is not more than $4,250,000;

(6) That the amount necessary to provide a sufficient cash working capital and permit of carrying suffi-

cient materials and supplies for the efficient conduct of telephone business in the City of Chicago is $3,000,000;

(7) That the going value of the Chicago property of the Illinois Bell Telephone Company is $4,196,872;

(8) That the Chicago division of the Illinois Bell Telephone Company has a depreciation reserve of $26,000,000, all of which has been contributed by the subscribers of this company, which sum has been used by the said company for extensions and additions to its property, and that the extensions and additions paid for from such moneys should not be considered in arriving at a base upon which to compute rates for telephone service;

(9) That the fair rate-making base for the Chicago property of the Illinois Bell Telephone Company, including physical property, overheads, working capital, going value and work in progress as hereinabove found is $96,000,000 and is exclusive of the $26,000,000 of money taken by the company for depreciation reserve and put in plant and equipment;

(10) That fair allowance for operating expenses for the aforesaid property during the ensuing year, including traffic expense, commercial expense, general and miscellaneous expense and taxes, but exclusive of maintenance and retirement expense, is $22,369,850;

(11) That a fair allowance to take care of maintenance and retirement charges for said property in use as of December 31, 1922, is $7,869,400, and that this sum, plus 8¾ per cent of all additions and betterments, will be sufficient and adequate to permit the Illinois Bell Telephone Company to properly maintain its Chicago property;

(12) That the rates and charges for telephone service now in effect in the City of Chicago, if permitted to remain in effect for the ensuing year, will return sufficient revenue to meet the findings made hereinabove as to operating expenses, maintenance and replacement allowance and permit the company to earn 9 per cent upon the rate-making base as hereinabove fixed;

(13) That a rate of return of 9 per cent is excessive and that, therefore, the present rates are unjust and unreasonable to the extent that they exceed the rates hereinafter authorized;

(14) That the rates hereinafter authorized for two-party coin box residence service, four-party coin box

residence service, single line coin box business service and two-party coin box business service should be placed in effect by the company as of October 1, 1923, and should supersede the rates for the corresponding service now in effect;

(16) That the rates as hereinafter authorized will return sufficient revenue during the ensuing year to permit the Illinois Bell Telephone Company to earn a revenue sufficient to meet the findings made hereinabove as to operating expenses, maintenance and replacements reserve and pay a return of 7½ per cent upon the rate base as hereinabove found, and that, therefore, the rates hereinafter authorized are the just and reasonable rates for telephone service in the City of Chicago and should remain in effect until the further order of the Commission.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission as follows:

(1) That the Illinois Bell Telephone Company shall, on or before October 1, 1923, file with the Commission Rate Schedule Ill. C. C. 2, for telephone service in the City of Chicago, effective as of October 1, 1923, which shall contain the same rates and charges as are now on file and in effect and designated as Rate Schedule I. P. U. C. 1, except that the rates hereinbelow stated for the classes of service indicated shall be substituted for the corresponding rates and classes of service now stated in I. P. U. C. 1.

(2) The charges for service to be substituted for those now in effect are here set forth:

2 party residence coin box, per 30 day month, $3.30
including 66 calls per month,
Guarantee 11 cents per day including 2.2 calls per day,
Over 66 calls per 30 day month, 4 cents per call.

4 party residence coin box per 30 day month, $2.25
including 45 calls per month,
Guarantee 7½ cents per day, including 1.5 calls per day,
46 to 60 calls per 30 day month, 5c per call.
over 60 calls per 30 day month, 4c per call.

Single party business coin box per 30 day month, $5.40
including 108 calls per month,
Guarantee 18 cents per day including 3.6 calls per day,
Over 108 calls per 30 day month, 4c per call.

2 party business coin box per 30 day month, $3.90 including 78 calls per month,
Guarantee 13 cents per day including 2.6 calls per day,
78 to 110 calls per 30 day month, 5c per call.
over 110 calls per 30 day month, 4c per call.

(3) That the Chicago division of the Illinois Bell Telephone Company shall file with the Commission monthly accounting reports on the same form as heretofore filed, setting forth the information thereon required and that such reports shall be filed within thirty (30) days of the close of each month beginning with the first month subsequent to the date of rates herein authorized.

The Commission especially retains jurisdiction of this cause for the purpose of making further inquiry, upon application, as to the sufficiency or insufficiency of the rates authorized herein and for the further purpose of modifying the said rates should the evidence adduced in any future investigation of the relations between the Illinois Bell Telephone Company and the American Telephone and Telegraph Company and the Western Electric Company require such modification.

By order of this Commission, at Springfield, Illinois, this 16th day of August, 1923.

JULIUS JOHNSON,
Secretary.

EXHIBIT "D".

Illinois Commerce Commission on its own motion,
vs.
Chicago Telephone Company (now Illinois Bell Telephone Company)
Citation to show cause why the rates for telephone service in the City of Chicago and such adjacent territory as constitutes the Chicago exchange, should not be reduced.
} 11894

Now comes ILLINOIS BELL TELEPHONE COMPANY, the respondent in the above entitled cause, and respectfully represents to this Honorable Commission:

1. That the findings of the Commission in its Order entered herein on the sixteenth day of August, 1923, are contrary to the evidence herein and against the manifest weight thereof.

2. That the present rates and charges of the respondent are not in excess of fair and reasonable rates.

3. That there is no evidence before the Commission showing or tending to show, as alleged in the citation herein dated September 13, 1921, that the existing rates and charges of the respondent were granted under excessively high operating conditions, or that operating conditions are lower than at the time they were granted and that, therefore, said citation and proceedings thereunder should be dismissed.

4. That the said Order of the Commission is void under the Fourteenth Amendment of the Constitution of the United States, in that the rates and charges prescribed in said order are confiscatory.

The respondent therefore petitions that the Commission grant a rehearing of the above entitled cause and that the Commission stay or postpone the enforcement of said order of August 16, 1923, pending this application and until the final order of the Commission upon said re-hearing.

ILLINOIS BELL TELEPHONE COMPANY,
By (Signed) W. R. ABBOTT,
President.

WILLIAM D. BANGS,
PHILIP B. WARREN,
Of Counsel.
Dated August 20, 1923.

PETITION OF INTERVENTION OF THE CITY OF CHICAGO—FILED SEPTEMBER 27, 1923.

Now comes your petitioner the City of Chicago, a municipal corporation of the State of Illinois, and respectfully represents to this Honorable Court that it has an interest in the matters involved in this suit and desires to intervene and be made a party defendant to said suit and says:

First. That the laws of Illinois provide for the appearance and participation as a party of any city in any proceeding before the Illinois Commerce Commission involving rates of public utilities within any city, as follows (L. 1921, p. 702, being an Act concerning public utilities, approved June 29, 1921, in force July 1, 1921, Section 64):

> "All cities shall have power to appear as complainants or to make application before the Illinois Commerce Commission for an inquiry, investigation or hearing relating to the rates or other charges or services of public utilities within such city; and in case of any inquiry, investigation or hearing by or before the Illinois Commerce Commission on any matter relating to the rates or other charges or services within any city, the city shall receive written notice not less than ten days before such inquiry, investigation or hearing, and shall be entitled to appear and present evidence relating to the subject-matter of such inquiry, investigation or hearing. Such notice shall be served upon the city clerk, and upon the city attorney or head of the law department of the city."

Second. That your petitioner was, throughout its entire course, a party to the proceeding before the Illinois Commerce Commission entitled "Illinois Commerce Commission on its own motion vs. Chicago Telephone Company (now Illinois Bell Telephone Company), Illinois Commerce Commission, Docket No. 11894," in which the rates and charges for telephone service furnished by plaintiff in its bill of complaint herein.

Third. That in said proceeding before said Illinois Commerce Commission your petitioner introduced evidence and by its attorneys produced, examined and cross-examined witnesses and was heard in argument on the matters involved in this proceeding.

Fourth. That your petitioner is by virtue of its powers and functions as a municipal government, interested in all matters in any manner pertaining to the regulation and operation of all public utilities within the territorial limits of your

petitioner and more particularly such utilities furnishing telephone service therein.

Fifth. That plaintiff herein, in the conduct of its business, is now exercising certain rights and privileges within the City of Chicago pursuant to franchises granted to said plaintiff by your petitioner.

Wherefore, your petitioner prays for an order granting your petitioner leave to intervene and making it a party defendant herein, in all respects, with the same rights and privileges as if your petitioner had been made a party defendant by plaintiff's bill of complaint.

CITY OF CHICAGO,
By FRANCIS X. BUSCH,
STEPHEN A. FOSTER,
Its Solicitors.

FRANCIS X. BUSCH,
STEPHEN A. FOSTER,
JAMES DALE THOM,
Of Counsel.

ORDER OF INTERVENTION OF THE CITY OF CHICAGO AS DEFENDANT.

It is hereby ordered that the City of Chicago, petitioner, have leave to intervene as a defendant in this suit, and such leave is hereby granted and said petitioner is hereby made a party defendant with the same rights and privileges as if made a party defendant by plaintiff's original Bill of Complaint.

.....,
Judge.

Dated September 27th, 1923.

TEMPORARY RESTRAINING ORDER.

This case came on to be heard before the Honorable Evan A. Evans, George T. Page, Circuit Judges of this district, and Honorable James H. Wilkerson, District Judge of this district.

Upon the motion of the plaintiff for a preliminary injunction, as prayed for in the bill of complaint herein, and said motion having been continued to October 15, 1923, upon motion of the defendants.

And the parties defendants having by their counsel agreed thereto, it is

Ordered and decreed that the Defendants, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson, and William J. Smith, the persons constituting the Illinois Commerce Commission of the State of Illinois, Edward J. Brundage, Attorney General of the State of Illinois, and/or their successors in office, and City of Chicago, a municipal corporation, be and they are hereby severally enjoined and restrained until October 15, 1923, or until the further order of the court, from attempting to compel the plaintiff, its officers, agents or employees, to observe, or put in force on October 1, 1923, or to observe and keep in force thereafter, the rates for telephone service prescribed by the order of the Illinois Commerce Commission of August 16, 1923, set forth in said bill, and that the defendants and/or their successors in office be, and they are hereby enjoined and restrained until October 15, 1923, or until the further order of the Court, from taking any steps or proceedings against the plaintiff, its officers, agents or employees, to enforce any penalties or any other remedy against the plaintiff for disregarding the rates prescribed by said order.

This order shall not take effect until the plaintiff shall enter into its bond or undertaking in the sum of Fifty Thousand Dollars ($50,000) conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained hereby, and further conditioned, so that in the event that an interlocutory injunction, as prayed for in the said bill of complaint, shall not be awarded to the plaintiff upon or before the expiration of this order, the plaintiff shall refund to its several subscribers, either in cash or by credit upon subsequent bills, any sums paid by them in the meantime in excess of the sums chargeable to them, pursuant to the provisions of said order of the Illinois Commerce Commission, the enforcement of which is hereby temporarily enjoined.

EVAN A. EVANS,
GEO. T. PAGE,
JAMES H. WILKERSON,
District Judge.

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

ILLINOIS BELL TELEPHONE COMPANY, Plaintiff, vs. **FRANK L. SMITH, CICERO J. LINDLY, HAL W. TROVILLION, P. H. MOYNIHAN, JAMES F. SULLIVAN, ALEX J. JOHNSON and WILLIAM J. SMITH,** the persons constituting the Illinois Commerce Commission of the State of Illinois, and **EDWARD J. BRUNDAGE,** Attorney-General of the State of Illinois, Defendants.	In Equity No. 3746.

The Answer of Defendant City of Chicago.

Now comes the City of Chicago, having been given leave to intervene and be joined as a party defendant herein, by leave of court first had and obtained, and for answer to the bill of complaint or unto so much and such parts thereof as this defendant is advised it is necessary or material for this defendant to make answer unto, answering, says:

First. This defendant admits the allegation contained in the first paragraph of the plaintiff's bill of complaint.

Second. This defendant admits that the defendants first named in the plaintiff's bill of complaint are the persons constituting the Illinois Commerce Commission of the State of Illinois, an administrative body duly created by a statute of said state entitled "An Act concerning Public Utilities," approved June 29, 1921, in force July 1, 1921, L. 1921, p. 702, a true copy of which statute is hereby attached as "Exhibit A," and made a part hereof, to which reference is hereby

expressly made for a statement of their powers and authority, and admits that the defendant last named in said bill of complaint is the Attorney General of the State of Illinois. This defendant is not advised as to whether the several defendants named in said bill of complaint are or are not citizens and residents of the several counties therein named and therefore neither admits nor denies such allegation.

Third. This defendant admits that the plaintiff is a common carrier as defined in the Act of Congress known as the Interstate Commerce Act and is subject to the jurisdiction of the Interstate Commerce Commission to the extent defined in said Act, to which reference is hereby expressly made.

Fourth. This defendant denies that the rates and charges prescribed in the order of the Illinois Commerce Commission dated August 16, 1923, to become effective October 1, 1923, for telephone service to the subscribers of the plaintiff within the City of Chicago, are confiscatory of plaintiff's property used or useful in furnishing said telephone service, and denies that said order, if enforced, will deprive plaintiff of its property without due process of law or will deny plaintiff the equal protection of the laws in violation of the plaintiff's rights under the Fourteenth Amendment of the Constitution of the United States, and denies that said order is null and void.

And this defendant further answering the allegations in the fourth paragraph of the plaintiff's bill of complaint, alleges, on information and belief, that the rates so prescribed in said order of said Illinois Commerce Commission are just and reasonable rates and were prescribed by said Commission in the exercise of its full power and authority under the statute of the State of Illinois creating said Commission and to which reference has already been herein made, and this defendant alleges that said rates and charges have not yet been put into effect or given any practical test by said plaintiff and that as is hereinafter more particularly set forth, it cannot be predicted with any degree of certainty whether said rates and charges, if put into effect, will in fact, reduce the revenues of said plaintiff and that it is entirely possible that if the reduced rates prescribed by the Illinois Commerce Commission in said order, are permitted to become effective and given a fair test, there will be an increase in the use of telephone service in the City of Chicago and an increase in plaintiff's revenues.

This defendant therefore says that this Honorable Court

should not take jurisdiction of this cause or grant any relief therein until a practical test of said prescribed rates shall have disclosed whether such prescribed rates will or will not result in depriving the plaintiff of a fair rate of return upon the fair value of its property and in confiscation of its property.

Fifth. This defendant admits that a certain citation was issued by the Illinois Commerce Commission against the plaintiff and that the plaintiff filed an answer thereto and that hearings were had before said Commission on said citation and answer and that evidence was introduced by the plaintiff and by the Illinois Commerce Commission and by representatives of this defendant, and that after said hearings were concluded said Commission entered an order on August 16, 1923, and that Exhibit "C" attached to the bill of complaint is believed by this defendant to be a true copy of said order, except that said Exhibit "C" is entitled by plaintiff "final order" whereas this defendant alleges that the order in fact entered by the Commission was not so entitled.

This defendant further admits that plaintiff filed a petition for rehearing in said proceeding before said Illinois Commerce Commission, a true copy of which is attached to said bill of complaint as Exhibit "D," and that on September 4, 1923, said Commission denied said petition for rehearing and notified the plaintiff thereof on September 8, 1923.

And this defendant further answering says that this defendant on September 12, 1923, filed its petition for rehearing in said proceeding before said Commission, a true copy of which is hereto attached as Exhibit "B" and that on September 12, 1923, said Commission denied said petition for rehearing, and that thereafter on September 13, 1923, this defendant duly perfected an appeal to the Circuit Court of Cook County, from the order of said Commission here complained of, pursuant to the terms of the statute of the State of Illinois in that behalf made and provided; that upon the perfecting of said appeal on said September 13, 1923, said Circuit Court of Cook County acquired jurisdiction over said appeal and of all questions raised in said petition for rehearing filed by this defendant, and of all questions raised by said petition for rehearing filed by the plaintiff, including the question raised by said plaintiff as to whether said order of the Commission was void under the Fourteenth Amendment of the Constitution of the United States in that as plaintiff alleged in said petition, the rates and charges prescribed in said order were confiscatory of plaintiff's property; and

this defendant further answering says that said appeal is still pending in the Circuit Court of Cook County and that the issues which are presented to this Honorable Court on the bill of complaint filed herein, are now and have since the perfecting of said appeal, been pending before said Circuit Court of Cook County for hearing and adjudication, and that said Circuit Court of Cook County can, under the terms of the statute of the State of Illinois in that behalf made and provided, in said appeal now pending before said court, grant to plaintiff herein, all of the temporary or permanent relief which this court can grant to plaintiff on the bill of complaint filed herein, and that the statutes of the State of Illinois expressly provide in Section 71 of the Act creating the Illinois Commerce Commission that pending such an appeal to the Circuit Court of Cook County said court "in its discretion may stay or suspend in whole or in part the operation of the Commission's rule, regulation, order or decision." And this defendant says that in view of the fact that said Circuit Court of Cook County first obtained jurisdiction of the subject matter of this cause and has pending before it the very issues here raised and can grant full and adequate relief to the plaintiff in the premises both in the form of temporary and permanent relief, this court should not take jurisdiction of this cause and should dismiss the plaintiff's bill of complaint.

Sixth. This defendant denies, on information and belief, that the cost to plaintiff of its property in the City of Chicago and State of Illinois now being used or useful in furnishing its intrastate telephone service to its subscribers and patrons in said city and exclusively devoted to the rendition of that service was, as it existed on June 30, 1923, not less than the sum of $103,500,000 exclusive of working capital, materials and supplies, work in progress and going value; and this defendant further denies on information and belief that the reproduction cost new of said property as it existed on June 30, 1923, is at least the sum of $135,500,000 exclusive of working capital, materials and supplies, work in progress, and going value, and likewise denies that the present fair value of said property is at least the sum of $144,500,000, including working capital, materials and supplies, work in progress and going value;

And this defendant further answering says that the plant and equipment accounts of the plaintiff as carried on its books are greatly inflated and do not correctly represent the cost to plaintiff of its property or present value of said

property, and that said accounts contain and include sums greatly in excess of either the cost or value of said property; that the estimated reproduction cost new of said property set forth in said bill of complaint is based upon theoretical studies of the cost of building a new telephone plant similar to that of the plaintiff in the City of Chicago under assumed conditions which are altogether improbable and at estimated costs which are excessive and that such estimates do not constitute any criterion for the fixing of fair value of the plaintiff's property; that all of the evidence introduced by the plaintiff at the hearings before the Illinois Commerce Commission was given due consideration by said Commission and that its conclusions as to the fair value of the plaintiff's property after the hearing of evidence and argument cannot be set aside on the strength of mere theoretical estimates or guesses by so-called experts as to what would be the cost of reproduction new of the plaintiff's property; and the defendant further says that the amounts set forth in said plaintiff's bill as to reproduction cost new of its property and its present fair value are excessive and unreliable and form no criterion for the determination of the proper rate base because plaintiff did not deduct or make any allowance for the large reserve for depreciation which plaintiff has accumulated from the amounts paid by telephone users in the past for the purpose of taking care of depreciation, which reserve now amounts, for that portion of the plaintiff's plant located in the City of Chicago, to some Twenty-seven Million Dollars, and this defendant says that that proportion of the plaintiff's plant which represents the investment therein of the amount of the plaintiff's reserve for depreciation should be deducted from any estimate of reproduction cost new of plaintiff's plant in arriving at a proper rate basis, and that no such deduction was made as this defendant is informed and believes, in any of the calculations made by plaintiff or its witnesses or affiants or in arriving at the figures set forth in plaintiff's bill of complaint.

Seventh. The defendant admits that the present telephone rates and charges in the City of Chicago were fixed and determined as fair and reasonable rates and charges by an order of the Public Utilities Commission, predecessor of the Illinois Commerce Commission, dated December 20, 1920, and that said rates and charges became effective January 1, 1921, and have remained continuously in effect thereafter and this defendant says that said rates and charges were accepted by the plaintiff as satisfactory to it and said rates and charges

were in no way attacked by plaintiff in any proceeding before either of said Illinois Commissions or in the courts; that there are some thirty-one different classes of telephone service rendered by the plaintiff to telephone subscribers in the City of Chicago and that of the rates and charges so fixed for said different classes of service and so accepted by said plaintiff, the rates and charges for only four different classes of service are changed by the order of the Commission here complained of; that the order here complained of, if allowed to go into effect, would merely do away with what is an unjust discrimination in the rates and charges now in force and give those telephone subscribers who use the so-called nickel coin box service, rates more nearly comparable to those enjoyed by telephone subscribers who use other classes of service; that it is to be presumed that the rates and charges prescribed by the order here complained of for the four classes of service aforesaid as fixed by the said Illinois Commerce Commission were just and reasonable and that the burden of proving by clear and convincing evidence that said particular rates would be noncompensatory and confiscatory rests upon plaintiff and that the plaintiff does not in its bill of complaint, make any allegation to the effect that these particular rates substituted by the order of the Commission for four classes of nickel coin box service are noncompensatory for the particular service so rendered or confiscatory of the property used and useful in rendering such service. This defendant therefore says that plaintiff cannot maintain its bill of complaint and that the same should be dismissed. And this defendant further says that the plaintiff in its supporting affidavits submits no evidence tending to prove that such particular rates are noncompensatory or confiscatory.

And this defendant further answering, denies, on information and belief, that the revenues produced by the present rates and charges now in effect after the payment of proper operating expenses and taxes of the company would leave available for return on all the property of the plaintiff in the City of Chicago resulting from the operations of the plaintiff in said city, including interstate operations, no more than the amounts set forth in paragraph seventh of said bill of complaint; and this defendant denies on information and belief that the revenues produced by said rates, after the payment of operating expenses and taxes, left available for return on the property of the plaintiff in the City of Chicago, excluding its interstate property, resulting from the intrastate operations of the plaintiff for the first seven months

of the year 1923 computed on the annual basis, amount only to $5,807,450.

And this defendant further answering says that in arriving at the figures in paragraph seventh in the plaintiff's bill of complaint set forth of what are alleged to be the net revenues of the company after the payment of operating expenses and taxes, there were included among the operating expenses, as this defendant is informed and believes, excessive and improper charges for depreciation and on other accounts such as the so-called 4½ per cent of the gross revenues of the plaintiff paid to the American Telephone and Telegraph Company for certain alleged services rendered, and telephone instruments furnished to the plaintiff; and this defendant further answering says that the credits made on the books by the plaintiff to depreciation reserve and the corresponding charges in its operating expenses and the charges made under the so-called 4½ per cent contract above referred to with the American Telephone and Telegraph Company, are excessive and should not be allowed as proper in passing upon the sufficiency and validity of the rates and charges prescribed by the order of the Commission here complained of.

And this defendant, on information and belief, denies that the plaintiff's telephone business in the City of Chicago has been conducted efficiently and economically during all of the times referred to in said bill of complaint, and on the contrary this defendant alleges, on information and belief, that said business has been conducted inefficiently and extravagantly in the dealings of said plaintiff with the American Telephone and Telegraph Company of New York, both in regard to the so-called 4½ per cent payments aforesaid and in the division of the joint tolls received for the transmission of telephone messages jointly over the lines of the plaintiff and said American Telephone and Telegraph Company, and in the purchase of its supplies from the Western Electric Company, the manufacturing department of the Bell system, which last named company, like the plaintiff, is dominated and controlled, in all of its business and activities, by said American Telephone and Telegraph Company, the owner of practically all of its stock.

And this defendant further answering says, on information and belief, that all of the dealings between said plaintiff and said American Telephone and Telegraph Company and said Western Electric Company, are dominated, dictated and controlled by said American Telephone and Telegraph

Company, and that there is no dealing "at arm's length" between said plaintiff and said last named company, and that said plaintiff has been unjustly dealt with and taken undue advantage of by said American Telephone and Telegraph Company, and that in determining the question whether the rates fixed by the order of the Illinois Commerce Commission here complained of afford an adequate and compensatory return for the service rendered, costs incurred and profits derived by said American company (whether directly or indirectly through said Western Electric Company) should be taken into account and due allowance made therefor.

Eighth. And this defendant denies, on information and belief, that the present rates and charges of the plaintiff are not in excess of fair and reasonable rates and charges, and on the contrary alleges that the present rates for the four classes of service above referred to and covered by the order of the Commission here complained of, were in excess of fair and reasonable rates and charges and were unjust, unreasonable and discriminatory; and this defendant further denies, on information and belief, that the fair annual return which the plaintiff is entitled to earn under rates imposed upon it by public authority is an amount equal to not less than eight per cent of the fair value at the time of its use of its property used or useful in the rendition of its service. And this defendant further answering says that said rate of eight per cent is excessive and that the cost to the plaintiff of borrowing money as demonstrated by the recent sale of a fifty million dollar issue of its bonds, does not exceed, including amortization and discount, five and six-tenths (5.6) per cent.

Ninth. This defendant denies that the rates and charges prescribed by the order of the Illinois Commerce Commission will not afford the plaintiff a fair return upon the fair value at the time of use of its property used or useful in and exclusively devoted to intrastate telephone service in the City of Chicago and denies that such rates and charges are confiscatory and denies that they are not fair and reasonable rates. This defendant further denies, on information and belief, that said rates and charges, if permitted to become effective, will reduce the amount available for the return of the plaintiff by not less than the sum of $1,700,000 per annum, and in this connection this defendant says that it is impossible to predict in advance that for any length of time, if at all, the revenues of plaintiff will be reduced if said order of the Commission is allowed to become effective; that it is to be expected that if the rates for the four classes of serv-

ice covered by said order, are permitted to go into effect, the telephone subscribers enjoying said classes of service will increase their use thereof and that this increased use will produce for the plaintiff a revenue nearly, if not equal, to that at present enjoyed by it from those classes of telephone users. And this defendant further answering denies that said rates and charges, if enforced, will deprive plaintiff of its property without due process of law, or will deny to plaintiff the equal protection of the laws in violation of its rights under the Fourteenth Amendment of the Constitution of the United States.

This defendant further answering denies that if said order complained of in said bill of complaint is enforced, the revenue produced by said rates after the payment of proper operating expenses and taxes resulting from the operation of the property of the plaintiff exclusively devoted to intrastate telephone service in the City of Chicago, will leave available for return less than three per cent per annum of the present fair value of said property, and this defendant further denies that if said order here complained of is enforced, the revenues of the company after the payment of proper operating expenses and taxes resulting from the operation of the plaintiff exclusively devoted to exchange service in the City of Chicago, will leave available for return less than three per cent per annum upon the present fair value of said property.

And this defendant further answering the last two sections in paragraph ninth of the plaintiff's bill of complaint, says that if the plaintiff will reduce the amounts now being set aside annually in the depreciation reserve, to a proper amount or obey in this regard the aforesaid order of the former Illinois Public Utilities Commission, or will reduce to a proper amount charges made under the so-called 4½ per cent contract, or will secure from the American Telephone and Telegraph Company a fair and equitable division of the long distance tolls received as aforesaid for the transmission of messages jointly over the lines of the plaintiff and said American Telephone and Telegraph Company, or fair and equitable treatment by said Western Electric Company (owned and controlled by said last named company), from which the plaintiff purchases practically all of its supplies and materials, the plaintiff will receive from the operations enumerated in said last two sections of paragraph ninth of said bill of complaint, a net revenue, available for return upon the several classes of property there enumerated, greatly

in excess, as this defendant is informed and believes, of eight per cent per annum, and that the savings which will be made by said plaintiff, if the above changes and economies are put into effect, will much more than offset the alleged reduction of revenue of $1,700,000 per annum, which the plaintiff avers, would result from the putting of said order of the Commission into operation.

Tenth. This defendant denies that the finding of said Illinois Commerce Commission in its order of August 16, 1923, that certain of the present rates of the plaintiff are unjust and unreasonable, is void and denies that the special rates therein prescribed are contrary to law and void. This defendant further denies, on information and belief, that in its findings in such order said Commission did not fix and determine sufficiently high valuations of the property of the plaintiff, and denies on information and belief that in arriving at the values fixed of $96,000,000, the Commission omitted any portion of the said property of the plaintiff which should have been included therein, and denies that the Commission arbitrarily disregarded and disallowed any expenses of the plaintiff reasonably incurred in operating its property, and denies that it disregarded certain orders and rules of the Interstate Commerce Commission and denies that the order of said Illinois Commerce Commission is null and void, and this defendant further answering says that in numerous instances the plaintiff has ignored and violated the rules of the Interstate Commerce Commission and has ignored and violated lawful orders entered by the former Illinois Public Utilities Commission, including the aforesaid order entered on December 20, 1920, and fixing the rates now in effect, and that said plaintiff violated and ignored, among other provisions of the last mentioned order, those relating to the proper annual allowance to be made for depreciation and to the proper allowance to be made under the so-called 4½ per cent contract as aforesaid.

Eleventh. This defendant admits that unless the enforcement of the order of the Commission of August 16, 1923, is enjoined by this or some other court, an attempt will be made to compel the plaintiff to comply with said order, but this defendant denies that the plaintiff will by reason of anything alleged in said bill of complaint, or in paragraph eleventh thereof, be forced to submit to the confiscation of its property without due process of law or in violation of its rights under the Constitution of the United States, or will be subjected to great and irreparable loss and damage.

And this defendant further denies, on information and belief, the other allegations in said paragraph eleventh contained, and further answering alleges that the plaintiff has a speedy and adequate remedy in the courts of the State of Illinois and in the Circuit Court of Cook County, where as above set forth, an appeal is now pending from the order of said Commission and there are presented for adjudication all of the issues that the plaintiff seeks to bring before this court in its bill of complaint.

Twelfth. Further answering, this defendant alleges that this Court is without jurisdiction to grant the relief asked for in plaintiff's application for an injunction or any of the relief asked in the plaintiff's bill of complaint, and this defendant prays the same benefit of each of the facts and things above set forth, as if the defendant had moved to dismiss the bill of complaint in these regards, and this defendant prays that said application for an injunction be dismissed and that all relief prayed for in the bill of complaint be denied, and said bill dismissed.

CITY OF CHICAGO,
By FRANCIS X. BUSCH,
STEPHEN A. FOSTER,
Its Solicitors.

FRANCIS X. BUSCH,
STEPHEN A. FOSTER,
JAMES DALE THOM,
Of Counsel.

UNITED STATES OF AMERICA

STATE OF ILLINOIS,
COUNTY OF COOK. } ss.

WILLIAM E. DEVER, being first duly sworn, on oath deposes and says that he is Mayor of the City of Chicago, defendant herein. That he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

WILLIAM E. DEVER.

Subscribed and sworn to before me this 25th day of September, A. D. 1923.

PHILIP SONNENSCHEIN,
Notary Public.

(NOTARIAL SEAL)

EXHIBIT "A."

ILLINOIS COMMERCE COMMISSION LAW AND WAREHOUSE ACT.

Commissioners: FRANK L. SMITH, Chairman; CICERO J. LINDLY, HAL W. TROVILLION, P. H. MOYNIHAN, ALEX J. JOHNSON, WM. J. SMITH, WM. BURKHART.

JULIUS JOHNSON, Secretary, Springfield, Illinois.

(Printed by authority of the State of Illinois.)

TABLE OF CONTENTS.

ARTICLE I.

§ 1. Illinois commerce commission appointment—term.
§ 2. Secretary.
§ 3. Assistant commissioners—additional officers and employees.
§ 4. Oath of office—qualification—bond.
§ 5. Salaries and expenses.
§ 6. Office of the commission—meeting—seal.
§ 7. Fees.
§ 8. Supervision of utilities—examination, rules and regulations—report of commission.
§ 9. Utilities to comply with requests and to obey orders of commission.
§ 10. Definitions.

ARTICLE II.

§ 11. Accounts.
§ 12. Other than public utility business.
§ 13. Forms of accounts.
§ 14. Depreciation of accounts.
§ 15. Audit and inspection.
§ 16. Accounts to be kept within state.
§ 17. Falsification or destruction of accounts—penalty.
§ 18. Penalty for divulging information.
§ 19. Report by public utilities—penalties for failure to report for false report.

ARTICLE III.

§ 20. Power to issue stocks, bonds, etc.
§ 21. Approval of issues—examination and valuation—application of proceeds—indebtedness for a year or less—franchises not to be capitalized.
§ 22. Mergers, consolidations and reorganizations—capitalization.
§ 23. Stocks, bonds, notes, etc., unlawfully issued void.
§ 24. Penalty against public utility.
§ 25. Penalty for false statements, etc., misappropriation of proceeds.
§ 26. No guarantee of stocks, bonds, etc., by state.
§ 27. Incorporated (intercorporate) relations—proceedings.
§ 28. Foreign corporations—franchises—application of law to.
§ 29. Transfer of franchises, etc.
§ 30. Valuation.
§ 31. Fees for the issuance of bonds—exceptions.

ARTICLE IV.

§ 32. General duties of public utilities.
§ 33. Filing schedule of rates and contracts.
§ 34. Printing, publication and posting of schedules—form to be prescribed by commission.
§ 35. No service to be rendered until schedules filed and published.
§ 36. Changes of rates—suspension of rates.
§ 37. Charging more or less than published rate.
§ 38. Discrimination forbidden.
§ 39. Discrimination—rebates, etc.
§ 40. Long and short haul—common carriers—telephones, telegraph—maps and plats of lines.
§ 41. Commission to fix rates and regulations.
§ 42. Control over joint rates.
§ 43. Interstate rates.
§ 44. Interchange of traffic or service.
§ 45. Sidetrack connections.
§ 46. Track connections.
§ 47. Telephone and telegraph connections.
§ 48. Joint use of facilities.
§ 49. Facilities, etc.—power of commission to determine.
§ 50. Additions, improvements and new structures—joint construction.

§ 51. Adequacy of railroad service.
§ 52. Distribution of cars—expediting traffic—demurrage—switching—storage—delivery of express—weights.
§ 53. Conditions in contracts for public utility services and forms of express receipts.
§ 54. Standards of service—examinations and tests.
§ 54a. Reading of meters.
§ 55. Certificate of convenience and necessity.
§ 55a. Operation of motor vehicle on highway—indemnity bond.
§ 55b. Approval by commission.
§ 55c. Action to require approval.
§ 56. Report and investigation of accidents.
§ 57. Safety of plant, appliance, etc., railroad track, etc.
§ 58. Grade crossings.
§ 59. Eminent domain.

ARTICLE V.

§ 60. Investigations and hearings.
§ 61. Testimony—immunity.
§ 62. Attendance of witnesses—production of papers—depositions.
§ 63. Right to inspect books and property and to examine agents of public utilities.
§ 64. Complaints—notice—cities.
§ 65. Hearings—order—record—copies of official documents and orders.
§ 66. Service of orders.
§ 67. Modification of order or decision—rehearing.
§ 68. Action to set aside orders of commission—jurisdiction.
§ 69. Appeals to supreme court.
§ 70. Expedition of cases.
§ 71. Suspension of order of commission pending judicial review.
§ 72. Reparation for overcharge—investigation of claims against public utilities.
§ 73. Civil damages.
§ 74. Remedies cumulative.
§ 75. Mandamus or injunction proceedings at instance of commission.
§ 76. Penalty for violation by public utility or corporation other than a public utility of act or orders—separate offenses.

§ 77. Persons violating act or orders—penalty.
§ 78. Actions to recover penalties.
§ 79. Duty of commission to prosecute and enforce laws affecting public utilities.
§ 80. Cancellation of warehouse licenses.

ARTICLE VI.

§ 81. Power of city with respect to public utilities.
§ 82. Copy of reports to be filed with city—falsification of reports—penalty.
§ 83. Commission to furnish information and assistance.
§ 84. Review of action of city.
§ 85. Adoption and approval by electors—petition.
§ 86. Surrender of power by city—petition.

ARTICLE VII.

§ 87. Acts repealed—transfer and continuance of power.
§ 88. Pending actions or proceedings.
§ 89. Constitutionality.
§ 90. Act not applicable to interstate commerce.
§ 91. Technical omissions not to invalidate acts of commission.

STORING PERSONAL PROPERTY FOR HIRE.

§ 1. Shall obtain license.
§ 2. Application for license.
§ 3. License—fee—bond—rules.
§ 4. Period for license to run—fees for part time.
§ 5. Act not retroactive.
§ 6. Violation of Act—prosecutions.
§ 7. Commission to have authority to make rules and regulations.
§ 8. Penalty.

ILLINOIS COMMERCE COMMISSION LAW.

(APPROVED JUNE 29, 1921. EFFECTIVE JULY 1, 1921.)

AN ACT *concerning public utilities.*

ARTICLE I.

ORGANIZATION AND POWERS OF THE COMMISSION.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* There is hereby created in the Department of Trade and Commerce an Illinois Commerce Commission consisting of seven members. The governor shall appoint the members of such Commission by and with the advice and consent of the Senate. In case of a vacancy in such office during the recess of the Senate the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some person to fill such office; and any person so nominated who is confirmed by the Senate, shall hold his office during the remainder of the term and until his successor shall be appointed and qualified. If the Senate is not in session at the time this Act takes effect, the Governor shall make temporary appointments as in the case of a vacancy. Each member of the Commission shall hold office for a term of four years from the third Monday in January next after the election of Governor and until his successor is appointed and qualified. The Governor shall from time to time designate the member of the Commission who shall be its chairman.

This Act shall be administered by the Illinois Commerce Commission created by this Act and in its name without any direction, supervision, or control by the director of trade and commerce.

A majority of the Commission shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission; and every finding, order or decision approved by a majority of the members of the Commision shall be deemed to be the finding, order or decision of the Commission.

§ 2. The Commission shall have a secretary, to be appointed by the Governor in the same manner and for the same term as are members of the Commission. He shall

keep a record of all proceedings, transactions, communications and official acts of the Commission and perform such other duties as the Commission may prescribe.

§ 3. Assistant commissioners, not to exceed eight in number, shall be appointed by the Governor as circumstances may require, to hold office at his pleasure, who may be persons qualified by professional training or previous experience, to make valuations of public utility properties, or to estimate proper rates of service of public utilities, or to examine other questions coming before the Commission, by taking testimony or by independent investigation. Such assistant commissioners shall, under the direction of the Commission, take testimony of witnesses, examine accounts, records, books, papers and physical properties, either by holding hearings or making independent investigations, in any matter referred to them by the Commission; and make report thereof to the Commission, and attend at hearings before the Commission when so directed by the Commission, for the purpose of explaining their investigations and the result thereof to the Commission and the parties interested; and perform such other duties as the Commission may direct, subject to its orders. All hearings before the Commission or any commissioner or assistant commissioner shall be held within the county in which the subject matter of the hearing is situated, or if the subject matter of the hearing is situated in more than one county, then at a place or places designated by the Commission, or agreed upon by the parties in interest, within one or more such counties, or at the place which in the judgment of the Commission shall be most convenient to the parties to be heard.

The Commission shall have power upon consultation with and the approval in writing of the Governor, to appoint or employ such additional officers and such accountants, engineers, experts, inspectors, clerks, and employees as it may deem to be necessary to carry out the provisions of this Act or to perform the duties and exercise the powers conferred by law upon the Commission. Appointments of assistant commissioners, engineers, accountants, rate experts, other experts, and one private secretary or stenographer to each commissioner and assistant commissioner, shall not be included in the classified civil service of the State.

§ 4. Each commissioner, each assistant commissioner, the secretary and each person appointed to office by the Commission, shall before entering upon the duties of his office, take and subscribe the constitutional oath of office.

Each commisioner, each assistant commissioner, and the secretary shall devote his entire time to the duties of his office, and shall hold no other office or position of profit, or engage in any other business, employment or vocation.

No person in the employ of or holding any official relation to any corporation or person subject in whole or in part to regulation by the Commission, and no person holding stocks or bonds in any such corporation, or who is in any other manner pecuniarily interested therein, directly or indirectly, shall be appointed to or hold the office of commissioner, assistant commissioner or secretary, or be appointed or employed by the Commission; and if any such person shall voluntarily become so interested his office or employment shall *ipso facto* become vacant. If any person become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest, and if he fails to do so his office or employment shall become vacant.

No commissioner, assistant commissioner, secretary or person appointed or employed by the Commission shall solicit or accept any gift, gratuity, emolument or employment from any person or corporation subject to the supervision of the Commission, or from any officer, agent or employee thereof; nor solicit, request from or recommend, directly or indirectly, to any such person or corporation, or to any officer, agent or employee thereof the appointment of any person to any place or position. And every such corporation and person, and every officer, agent or employee thereof, is hereby forbidden to offer to any commissioner, assistant commissioner, secretary or to any person appointed or employed by the Commission any gift, gratuity, emolument or employment. If any commissioner, assistant commissioner, secretary or any person appointed or employed by the Commission shall violate any provisions of this paragraph he shall be removed from the office or employment held by him. Every person violating the provisions of this paragraph shall be guilty of a misdemeanor.

Before entering upon the duties of his office each commissioner shall give bond, with security to be approved by the Governor, in the sum of $20,000, conditioned for the faithful performance of his duty as such commissioner. Before entering upon the duties of his office each assistant commissioner and the secretary shall give bond, with security to be approved by the Governor in the sum of $10,000, conditioned for the faithful performance of his duty as such assistant commissioner or secretary. Every person appointed or employed

by the Commission, may, in the discretion of the Commission, before entering upon the duties of his office, he required to give bond for the faithful discharge of his duties, in such sum as the Commission may designate, which bond shall be approved by the Commission.

§ 5. The annual salary of each commissioner shall be seven thousand dollars. The annual salary of each assistant commissioner and of the secretary of the Commission shall be five thousand dollars. All officers, accountants, engineers, clerks, inspectors, experts and employees of the Commission shall receive the compensation fixed by the Commission subject to the approval of the Governor in writing.

The commissioners and their officers, accountants, engineers, clerks, inspectors, experts and other employees, shall have reimbursed to them all actual and necessary traveling and other expenses and disbursements necessarily incurred or made by them in the discharge of their official duties. The Commission may also incur necessary expenses for office furniture, stationery, printing and other incidental expenses.

§ 6. The office of the Commission shall be in Springfield, but the Commission may, with the approval of the Governor, establish and maintain branch offices at places other than the seat of government. Such office shall be open for business between the hours of eight thirty in the morning and five in the evening throughout the year, and one or more responsible persons to be designated by the Commission or by the secretary under the direction of the Commission shall be on duty at all times in immediate charge thereof.

The Commission shall hold stated meetings at least once a month at its office and may hold such special meetings as it may deem necessary at any place within the State.

The Commission may, for the authentication of its records, process and proceedings, adopt, keep and use a common seal, of which seal judicial notice shall be taken in all courts of this State; and any process, writ, notice or other paper which the said Commissioner may be authorized by law to issue shall be deemed sufficient if signed by the secretary of said Commission and authenticated by such seal; and all acts, orders, proceedings, rules, entries, minutes, schedules and records of said Commission, and all reports and documents filed with said Commission, may be proved in any court of this State by a copy thereof, certified to by the secretary of said Commission, with the seal of said Commission attached.

§ 7. The Commission shall charge and collect the following fees: For copies of papers and records not required to

be certified or otherwise authenticated by the Commission, ten cents for each folio; for certified copies of evidence and proceedings before the Commission or of official documents and orders filed in its office fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certifying a copy of any report made by a public utility to the Commission or for each certified copy of the annual report of the Commission, one dollar. No fees shall be charged or collected for copies of papers, records or official documents furnished to any city or public officers for use in their official capacity, or for the annual reports of the Commission in the ordinary course of distribution, but the Commission may fix reasonable charges for publications issued under its authority. All fees charged and collected by the Commission shall belong to the people of the State, and shall be paid not less than ten days after the receipts of the same, accompanied by a detailed statement thereof, into the treasury of the State to the credit of the general fund.

§ 8. The Commission shall have general supervision of all public utilities, except as otherwise provided in this Act, shall inquire into the management of the business thereof and shall keep itself informed as to the manner and method in which the business is conducted. It shall examine such public utilities and keep informed as to their general condition, their franchise, capitalization, rates and other charges, and the manner in which their plants, equipment and other property owned, leased, controlled or operated are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service but also with respect to their compliance with the provisions of this Act and any other law, with the orders of the Commission and with the charter and franchise requirements.

In case any public utility is engaged in carrying on any business other than that of a public utility, which other business is not otherwise subject to the jurisdiction of the Commission, such public utility in respect of such other business shall be subject to inquiry, examination and inspection by the Commission in the same manner as the public utility business in so far as such inquiry, examination and inspection may be necessary to enforce any provision of this Act. The determination of the Commission that a necessity for any regulation of non-public business of a public utility exists shall be *prima facie* evidence of the fact in any action in a court of this State to enforce or set aside an order or ruling of the Commission.

The Commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of railroad or other public utility commissions of other states and with the Interstate Commerce Commission on any matters relating to public utilities.

The Commission shall have power to adopt reasonable and proper rules and regulations relative to the exercise of its powers, and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings, and to alter and amend the same.

All proceedings of the Commission and all documents and records in its possession shall be public records, except as in this Act otherwise provided. The Commission shall make an annual report to the Governor on or before the first day of December in each year, which shall contain copies of all orders issued by it, and any information in the possession of the Commisison which it shall deem of value to the people of the State.

The Commission shall conduct a hearing and take testimony relative to pending legislation with respect to any person, corporation or matter within its jurisdiction, if requested to do so by the General Assembly or by either branch thereof, and shall report its conclusions to the General Assembly. The Commission may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest. The Commisison shall, at such times as the Governor shall direct, examine any particular subject connected with the condition and management of public utilities, and report to him in writing its opinion thereon with its reasons therefor.

§9. Every public utility shall furnish to the Commission all information required by it to carry into effect the provisions of this Act, and shall make specific answers to all questions submitted by the Commission.

Any public utility receiving from the Commission any blanks with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question, it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent or general manager of such public utility and returned to the Commission at its office within the period fixed by the Commission.

Whenever required by the Commission, every public utility shall deliver to the Commission, any or all maps, profiles, reports, documents, books, accounts, papers and records in its possession, or in any way relating to its property or affecting its business, and inventories of its property, in such form as the Commission may direct, or verified copies of any or all of the same.

Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the Commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

§ 10. Unless otherwise specified, the word "Commission," when used in this Act, means the Illinois Commerce Commission, which is created and established under the provisions of this Act.

The term "commissioner," when used in this Act, means one of the members of the Commission.

The term "public utility," when used in this Act, means and includes every corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever (except, however, such public utilities as are or may hereafter be owned or operated by any transportation district or other municipality, and except such telephone company or companies which are or may hereafter be purely mutual concerns, having no rates or charges for services, but paying the operating expenses by assessment upon the members of such company or companies and no other person or persons) that now or hereafter:

(a) May own, control, operate, or manage, within the State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with the transportation of persons or property or the transmission of telegraph or telephone messages between points within this State; or for the production, storage, transmission, sale, delivery or furnishing of, heat, cold, light, power, electricity or water; or for the conveyance of oil or gas by pipe line; or for the storage or warehousing of grain; or for the conduct of the business of a wharfinger or that

(b) May own or control any franchise, license, permit or right to engage in any such business.

The term "common carrier," when used in this Act, includes all railroads, street railroads, express companies, private car lines, sleeping car companies, fast freight lines, steamboat lines and other common carriers by water, and every corporation, company, association, joint stock company or association, firm, partnership, or individual, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating or managing any such agency for public use in the transportation of persons or property within the State.

The term "railroad," when used in this Act, includes every railroad other than a street railroad, by whatsoever power operated, for public use in the transportation of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, poles, wires, stations, real estate and terminal facilities of every kind, used, operated, controlled or owned by or in connection with any railroad.

The term "street railroad," when used in this Act, includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the transportation of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place in any city, village or incorporated town, and including all equipment, switches, spurs, tracks, poles, wires, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind together with all real estate used, operated, controlled or owned by or in connection with any such street railroad; but the said term "street railroad," when used in this Act, shall not include a railroad constituting or used as part of a trunk line railroad system.

The term "transportation of persons," when used in this Act, includes any service in connection with the receipt, carriage and delivery of the person transported and his baggage, and all facilities, used or necessary to be used in connection with the safety, comfort and convenience of the person transported.

The term "transportation of property," when used in this Act, includes any service in connection with the receipt, carriage, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported.

The term "express company," when used in this Act, includes every corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever, engaged in the transportation of freight, merchandise or other property for compensation on the route or line of any other common carrier.

The term "company" when used in this Act, in connection with a public utility, includes any corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing such a public utility, but not municipal corporations.

The term "corporation," when used in this Act, includes any corporation, company, association, joint stock company or association, but not municipal corporations.

The term "person," when used in this Act, includes an individual, firm or co-partnership.

The term "warehouse," when used in this Act, includes all elevators or storehouses where grain is stored for a compensation, whether the property stored be kept separate or not.

The term "wharfinger," when used in this Act, includes every corporation, not municipal, or person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf, or structure used by vessels or other water craft in connection with or to facilitate the receipt or discharge of freight or passengers within this State.

The term "service," when used in this Act, is used in its broadest and most inclusive sense, and includes not only the use or accommodation afforded consumers or patrons, but also any product or commodity furnished by any public utility and the plant, equipment, apparatus, appliances, property and facilities employed by, or in connection with, any public utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public utility is engaged and to the use and accommodation of the public.

The term "rate," when used in this Act, includes every individual or joint rate, fare, toll, charge, rental or other compensation of any public utility or any two or more such individual or joint rates, fares, tolls, charges, rentals or other compensations of any public utility or any schedule or tariff

thereof, and any rule, regulation, charge, practice or contract relating thereto.

The term "city council," when used in this Act, includes the mayor and commissioners of cities which have adopted the Commission form or municipal government and the council of all other cities and the president and board of trustees of villages and incorporated towns.

The term "city," when used in this Act, includes all villages and incorporated towns. The powers and jurisdiction conferred upon cities by Article VI of this Act shall supersede the powers and jurisdiction conferred upon the Illinois Commerce Commission, in all cases in which that article shall be adopted by cities.

Article II.

Reports and Accounts.

§11. The Commission shall have power to establish a uniform system of accounts to be kept by public utilities or to classify public utilities and to establish a uniform system of accounts for each class and to prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts to be kept by public utilities, including records of service, as well as accounts of earnings and expenses, and any other forms, records and memoranda which in the judgment of the Commission may be necessary to carry out any of the provisions of this Act. The system of accounts established by the Commission and the forms of accounts prescribed by it shall not be inconsistent, in the case of corporations subject to the provisions of the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, with the systems and forms from time to time established for such corporations by the Interstate Commerce Commission, but nothing herein contained shall affect the power of the Commission to prescribe forms of accounts for such corporations, with the approval of the Interstate Commerce Commission, covering information in addition to that required by the Interstate Commerce Commission. Where the Commission has prescribed the forms of accounts to be kept by any public utility for any of its business, it shall thereafter be unlawful for such public util-

ity to keep any accounts for such business other than those prescribed or approved by the Commission, or those prescribed by or under the authority of any other state or of the United States.

The Commission may, from time to time, alter, amend or repeal in whole or in part, any uniform system of accounts, or the form and manner of keeping accounts.

§ 12. The Commission may require every public utility engaged directly or indirectly in any other than a public utility business, as defined by law to keep separately in like manner and form the accounts of all such other business, and the Commission may provide for the examination and inspection of the books, accounts, papers and records of such other business, in so far as may be necessary to enforce any provision of this Act. The Commission shall have power to inquire as to and prescribe the apportionment of capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such public utility as distinguished from such other business.

§ 13. Such systems of accounts shall provide for forms showing all sources of incomes, the amounts due and received from each source and the amounts expended and due for each purpose, distinguished clearly all payments for operating expenses from those for new construction, extensions and additions and for balance sheets showing assets and liabilities and various forms of proprietary interest.

§ 14. The Commission shall have power, after hearing, to require any or all public utilities to keep such accounts as will adequately reflect depreciation, obsolescence and the progress of the arts. The Commission may, from time to time, ascertain and determine and by order fix the proper and adequate rate of depreciation of the several classes of property for each public utility; and each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed.

§ 15. The Commission may provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the Commission. The officers and employees of the Commission shall have authority under the direction of the Commission to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utilities.

§ 16. Each public utility shall have an office in one of the cities, villages or incorporated towns in this State in which

its property or some part thereof is located, and shall keep in said office all such books, accounts, papers, records and memoranda as shall be ordered by the Commission to be kept within the State. The address of such office shall be filed with the Commission. No books, accounts, papers, records or memoranda ordered by the Commission to be kept within the State shall be at any time removed from the State, except upon such conditions as may be prescribed by the Commission.

§17. Any person who shall wilfully make any false entry in the accounts, or in any record of memoranda, or by any other means or device falsify the record of any such account, record or memoranda, or who shall wilfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts in transactions appertaining to the business of the public utility, or shall keep any accounts or record other than those prescribed or approved by the Commission, shall be guilty of a misdemeanor, and upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or to both.

If any such books, accounts, records or memoranda shall have been preserved for a period of at least three years, a public utility may with the consent of the Commission destroy such of them as in the judgment of the Commission may properly be destroyed.

§18. Any officer or employee of the Commission who divulges any fact or information coming to his knowledge during the course of an inspection, examination or investigation of any account, record, memoranda, book or paper of a public utility, except in so far as he may be authorized by the Commission or by a court of competent jurisdiction, or a judge thereof, shall be guilty of a misdemeanor, and upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or to both.

§19. Each public utility in the State shall each year furnish to the Commission, in such form as the Commission shall require, annual reports as to all the items mentioned in the preceding sections of this article, and in addition such other items, whether of a nature similar to those therein enumerated or otherwise, as the Commission may prescribe. Such annual reports shall contain all the required information for the period of twelve months ending on the thirtieth day of June in each year, or ending on the thirty-first day of

December in each year, as the Commission may by order prescribe for each class of public utilities, and shall be filed with the Commission at its office in Springfield within three months after the close of the year for which the report is made. The Commission shall have authority to require any public utility to file monthly reports of earnings and expenses of such utility, and to file other periodical or special, or both periodical and special reports concerning any matter about which the Commission is authorized by law to keep itself informed. All reports shall be under oath.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the public utility to amend such report within thirty days, and before or after the termination of such period the Commission may examine the officers, agents, or employees, and books, records, accounts, vouchers, plant, equipment and property of such public utility, and correct such items in the report as upon such examination the Commission may find defective or erroneous.

All reports made to the Commission by any public utility and the contents thereof shall be open to public inspection, unless otherwise ordered by the Commission. Such reports shall be preserved in the office of the Commission.

Any public utility which fails to make and file any report called for by the Commission within the time specified; or to make specific answer to any question propounded by the Commission within thirty days from the time it is lawfully required to do so, or within such further time, not to exceed ninety days, as may in its discretion be allowed by the Commission, shall forfeit $100 for each and every day it may so be in default.

Any person who wilfully makes any false return or report to the Commission, or to any member, officer or employee thereof, and any person who aids or abets such person shall upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or both.

Article III.

STOCKS AND BONDS—CAPITALIZATION—INTERCORPORATE RELATIONS —FRANCHISE—VALUATION.

§ 20. The power of public utilities to issue stocks, stock certificates, bonds, notes and other evidences of indebtedness and to create liens on their property is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the State, and such power shall be exercised by the Commission hereby created according to the provisions of this Act and under such rules and regulations as the Commission may prescribe.

The Commission shall provide, by serial number or other device to be placed on the face thereof, for the proper and easy identification of such stocks, stock certificates, bonds, notes and other evidences of indebtedness as may be issued by public utilities under the provisions of this article.

§ 21. Subject to the provisions of this Act and of the order of the Commission issued as provided in this Act, a public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely: For the acquisition of property, or for the construction, extension or improvement of or addition to its facilities, or for the discharge or lawful refunding of its obligations; or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not directly or indirectly secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, within five years next prior to the filing of an application with the Commission for the required authorization, for any of the aforesaid purposes except maintenance of service, replacements and substitutions in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the Commission to ascertain the amounts of money so expended and the purposes for which such expenditures were made, and the sources of the funds in the treasury of the public utility applied to such expenditures: *Provided*, that such public utility, in addition to the other requirements of law, shall first have secured from the Commission an order

authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the Commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. To enable it to determine whether it will issue such order, the Commission shall hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, accounts, documents and contracts and require the filing of such data as it may deem of assistance. The public utility may be required by the Commission to disclose every interest of the directors of such public utility in any transaction under investigation. The Commission shall have power to investigate all such transactions and to inquire into the good faith thereof, to examine books, papers, accounts, documents and contracts of public utilities, construction or other companies or of firms or individuals with whom the public utility shall have had financial transactions, for the purpose of enabling it to verify any statements furnished, and to examine into the actual value of property acquired by or services rendered to such public utility. Before issuing its order the Commission, when it is deemed necessary by the Commission, shall make an adequate physical valuation of all property of the public utility, but a valuation already made under proper public supervision may be adopted, either in whole or in part, at the discretion of the Commission; and shall also examine all previously authorized or outstanding securities of the public utility, and fixed charges attached thereto. A statement of the results of such physical valuation, and a statement of the character of all outstanding securities, together with the conditions under which they are held, shall be included in the order. The Commission may require that such information or such part thereof as it thinks proper, shall appear upon the stock, stock certificates, bond, note or other evidence of indebtedness authorized by its order. The Commission may by its order grant permission for the issue of such stock certificates, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem rea-

sonable and necessary. The Commission may also require the public utility to compile for the information of its shareholders such facts in regard to its financial transactions, in such form as the Commission may direct.

No public utility shall, without the consent of the Commission, apply the issue of any stock or stock certificate, or bond, note or other evidence of indebtedness, or any part thereof, or any process thereof, to any purpose not specified in the Commission's order or to any purpose specified in the Commission's order in excess of the amount authorized for such purpose; or issue, or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof. The Commission shall have the power to require public utilities to account for the disposition of the proceeds of all sales of stocks and stock certificates, and bonds, notes and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

A public utility may issue notes, for proper purposes, and not in violation of any provision of this Act or any other Act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the Commission; but no such note shall, in whole or in part, be renewed from time to time without the consent of the Commission for an aggregate period of longer than two years, or be refunded by any issue of stocks and stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the Commission.

The Commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise, license or permit whatsoever, or the right to own, operate or enjoy any such franchise, license, or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, license, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public utility hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

§ 22. The capitalization of a public utility formed by a merger or consolidation of two or more corporations shall

be subject to the approval of the Commission, but in no event shall the Commission approve a capitalization exceeding the sum of the capital stock of the corporations so consolidated, at the par value thereof, and any additional sum actually paid in cash for improvements; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. In any reorganization of a public utility, resulting from forced sale, or in any other manner, the amount of capitalization, including therein all stocks and stock certificates and bonds, notes and other evidences of indebtedness, shall be such as is authorized by the Commission, which in making its determination, shall not exceed the fair value of the property involved. Issuance of stocks and stock certificates, and bonds, notes or other evidences of indebtedness in connection with any consolidation, merger, or reorganization shall be subject to all the terms of Section 20 and 21 of this Act.

§ 23. All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, not payable within twelve months issued without an order of the Commission authorizing the same then in effect shall be void, unless issued upon the authority of any articles of incorporation or amendments thereto, and of a vote of the stockholders or directors, filed and taken before January 1, 1914, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness of a public utility not payable within twelve months, issued with the authorization of the Commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the Commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the Commission shall render void any stock or stock certificate, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same with notice of the failure to comply with the order of the Commission.

§ 24. Every public utility which, directly or indirectly, issues or causes to be issued, any stock, stock certificate, bond, note or other evidence of indebtedness, in non-conformity with the order of the Commission authorizing the same, or contrary to the provisions of this Act, or which applies the proceeds from the sale thereof, or any part

thereof, to any purpose other than the purpose or purposes specified in the Commission's order, as herein provided, or to any purpose specified in the Commission's order in excess of the amount authorized for such purpose, shall upon conviction, be subject to a penalty of not less than five hundred dollars ($500) nor more than twenty thousand dollars ($20,000) for each offense.

§ 25. Every officer, agent or employee of a public utility, and every other person who knowingly authorizes, directs, issues or executes, causes to be issued or executed, or aids in the issue or execution of any stock, stock certificate, bond, note or other evidence of indebtedness, in nonconformity with the order of the Commission authorizing the same, or contrary to the provisions of this Act; or who, in any proceeding before the Commission knowingly makes any false statement or representation, or with the knowledge of its falsity files or causes to be filed with the Commission any false statement or representation, which said statement or representation so made, filed or caused to be filed, may tend in any way to influence the Commission to make an order authorizing the issue of any stock or stock certificate, or any bond, note or other evidence of indebtedness, or which results in procuring from the Commission the making of any such order, or who, with knowledge that any false statement or representation was made to the Commission, in any proceeding, tending in any way to influence the Commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate, or bond, note or other evidence of indebtedness, to any purpose not specified in the Commission's order or to any purpose specified in the Commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this Act, negotiates, or causes the same to be negotiated, shall, on conviction thereof, be imprisoned in the State penitentiary for a term of not less than two years and not more than ten years.

§ 26. No provisions of this Act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of Illinois to pay or guar-

antee, in any manner whatsoever, any stock or stock certificate, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this Act; nor shall it be held or construed to imply any validation or approval by the State of past issues, nor that past or future or past and future issues represent actual value of property owned or to be owned by a public utility or the value of such property for rate making purposes.

§ 27. Unless the consent and approval of the Commission is first obtained:

(a) No two or more public utilities may enter into contracts with each other that will enable such public utilities to operate their lines or plants in connection with each other;

(b) No public utility may purchase, lease or in any other manner acquire, control, direct or indirect, over the franchises, licenses, permits, plants, equipment, business or other property of any other public utility;

(c) No public utility may assign, transfer, lease, mortgage, sell or otherwise dispose of or encumber the whole or any part of its franchises, licenses, permits, plant, equipment, business, or other property; but this shall not be construed to prevent the sale, lease, assignment or transfer by any public utility of any tangible personal property which is not necessary or useful in the performance of its duties to the public;

(d) No public utility may by any means, direct or indirect, merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that of any other public utility;

(e) No public utility may purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidences of indebtedness of any other public utility, except with the consent and approval of the Commission.

The proceedings for obtaining the authorization of the Commission provided for in this section shall be as follows: There shall be filed with the Commission a petition, joint or otherwise, as the case may be, signed and verified by the president and secretary of the respective companies or by the person or company, as the case may be, clearly setting forth the object and purposes desired, and setting forth the full and complete terms of the proposed assignment, transfer, lease, mortgage, purchase, sale, merger, consolidation, contract or other transaction, as the case may be. Upon the filing of such petition, the Commission shall, if it deems necessary, fix a time and place for the hearing thereon.

After such hearing, or in case no hearing is required, if the Commission is satisfied that such petition should reasonably be granted, and that the public will be convenienced thereby, the Commission shall make such order in the premises as it may deem proper and as the circumstances may require, attaching such conditions as it may deem proper, and thereupon it shall be lawful to do the things provided for in such order. The Commission shall impose such conditions as will protect the interests of minority and preferred stockholders.

Every assignment, transfer, lease, mortgage, sale, or other disposition or encumbrance of the whole or any part of the franchises, licenses, permits, plant, equipment, business or other property of any public utility, or any merger or consolidation thereof, and every contract, purchase of stock, or other transaction referred to in this section, made otherwise than in accordance with an order of the Commission authorizing the same, except as provided in this section, shall be void. The provisions of this section shall not apply to any transactions by or with a transportation district organized under the laws of this State.

§ 28. No franchise, license, permit or right to own, operate, manage or control any public utility, except common carriers engaged in interstate commerce and except telegraph or telephone companies engaged in interstate commerce, shall be hereafter granted or transferred to any grantee or transferee other than a corporation duly incorporated under the laws of this State.

No public utility shall be in any manner exempt from the provisions of this Act because or by virtue of the fact that it may be or may have been incorporated or organized under the laws of another state, or of the Unted States, or of a foreign country.

§ 29. No franchise, license, permit or right to own, operate, manage or control any public utility shall be assigned, transferred or leased nor shall any contract or agreement with reference to or affecting any such franchise, license, permit or right be valid or of any force or effect whatsoever, unless such assignment, lease, contract, or agreement shall have been approved by the Commission. Such permission shall not be construed to revive or validate any lapse or invalid franchise, license, permit or right, or to enlarge or add to the powers and privileges contained in the grant of any franchise, license, permit or right, or to waive any forfeiture.

The provisions of this section shall not apply to any transactions by or with a transportation district organized under the laws of this State.

§30. The Commission shall have power to ascertain the value of the property of every public utility in this State and every fact which in its judgment may or does have any bearing on such value. In making such valuation the Commission may avail itself of any information, books, documents, or records in the possession of any officer, department or board of the State or any subdivision thereof. The Commission shall have power to make revaluation from time to time and also to ascertain the value of all new construction, extensions, and additions to the property of every public utility.

§31. The Commission shall charge every public utility receiving permission under this Act for the issue of bonds, notes and other evidences of indebtedness an amount equal to ten cents for every hundred dollars of such securities authorized by the Commission, and the same shall be paid into the State treasury before any such securities shall be issued: *Provided*, that no public utility shall be required to pay any fee for permission granted to it by the Commission in any of the following cases:

(1) To guarantee bonds or other securities.

(2) To issue bonds, notes or other evidences of indebtedness issued for the purpose of converting, exchanging, taking over, refunding, discharging or retiring any bonds, notes or other evidences of indebtedness except:

(a) When issued for an aggregate period of longer than two years for the purpose of converting, exchanging, taking over, refunding, discharging or retiring any note, or renewals thereof, issued without the consent of the State Public Utilities Commission of Illinois or the Public Utilities Commission or the Illinois Commerce Commission.

(b) When issued for the purpose of converting, exchanging, taking over, refunding, discharging or retiring bonds, notes or other evidences of indebtedness issued prior to January 1, 1914, and upon which no fee has been previously paid.

Article IV.

RATES AND SERVICES—ACCIDENTS.

§ 32. All rates or other charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or for any service rendered or to be rendered, shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful.

Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees, and the public and as shall be in all respects adequate, efficient, just and reasonable.

All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

§ 33. Every public utility shall file with the Commission and shall print and keep open to public inspection schedules showing all rates and other charges, and classifications, which are in force at the time for any product or commodity furnished or to be furnished by it, or for any service performed by it, or for any service in connection therewith, or performed by any public utility controlled or operated by it. Every public utility shall file with and as a part of such schedule and shall state separately all rules, regulations, terminal, icing, storage or other charges, privileges and contracts that in any manner affect the rates charged or to be charged for any service. Such schedule shall be filed for all services performed wholly or partly within this State, and the rates and other charges and classifications shall not, without the consent of the Commission, exceed those in effect on July 1, 1921. But nothing in this section shall prevent the Commission from approving or fixing rates or other charges or classifications from time to time, in excess of or less than those shown by said schedules.

Where a schedule of joint rates or other charges, or classifications is or may be in force between two or more public utilities such schedules shall in like manner be printed and filed with the Commission, and so much thereof as the Commission shall deem necessary for the use of the public

shall be filed in every station or office of such public utility in accordance with the terms of section 34 of this Act. Unless otherwise ordered by the Commission a schedule showing such joint rates or other charges, or classifications need not be filed with the Commission by more than one of the parties to it: *Provided*, that there is also filed with the Commission a concurrence in such schedule by each of the other parties thereto.

Every public utility shall file with the Commission copies of all contracts, agreements or arrangements with other public utilities, in relation to any service, product or commodity affected by the provisions of this Act, to which it may be a party, and copies of all other contracts, agreements or arrangements with any other person or corporation affecting in the judgment of the Commission the cost to such public utility of any service, product or commodity.

§ 34. Subject to such rules and regulations as the Commission may prescribe, the schedules referred to in section 33 shall be plainly printed, mimeographed or typewritten in large type, and a copy thereof shall be posted or kept on file in every station or office of a public utility where the public transacts business with such public utility. Any or all of such schedules kept as aforesaid shall be immediately produced by such public utility for inspection upon the demand of any person. A notice printed in bold type, in size prescribed by the Commission, stating that such schedules are on file with the agent and open to inspection by any person, and that the agent will assist any person to determine from such schedules any rates or other charges, classification, rules or regulations in force, shall be kept posted by the public utility in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the Commission and shall conform in the case of common carriers subject to the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, as nearly as may be, to the form of schedules and manner of posting prescribed by the Interstate Commerce Commission under said Act: *Provided*, that in lieu of filing the entire schedule in each station or office, any public utility may, subject to the regulations of the Commission, file or keep posted at such station or office, schedules of such rates or other charges, classifications, rules and regulations relating thereto, as are

applicable at, to and from the place where such office is located.

The Commission may determine and prescribe the form in which the schedules required by this Act to be filed with the Commission and to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time if it shall be found expedient: *Provided, however*, that the Commission shall endeavor to have such form or forms prescribed by it conform as far as practicable to any similar form or forms prescribed by the Interstate Commerce Commission.

§ 35. No public utility shall undertake to perform any service or to furnish any product or commodity unless or until the rates and other charges and classifications, rules and regulations relating thereto, applicable to such service, product or commodity, have been filed and published in accordance with the provisions of this Act: *Provided*, that in cases of emergency, a service, product or commodity not specifically covered by the schedules filed, may be performed or furnished at a reasonable rate, which rate shall forthwith be filed and shall be subject to review in accordance with the provisions of this Act.

§ 36. Unless the Commission otherwise orders, no change shall be made by any public utility in any rate or other charge or classification, or in any rule, regulation, practice or contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, except after thirty days' notice to the Commission and to the public as herein provided. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules or supplements stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect, and by publication in a newspaper of general circulation or such other notice to persons affected by such change as may be prescribed by rule of the Commission. The Commission, for good cause shown, may allow changes without requiring the 30 days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published.

When any change is proposed in any rate or other charge, or classification, or in any rule, regulation, practice, or contract, relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, such

proposed change shall be plainly indicated on the new schedule filed with the Commission, by some character to be designated by the Commission, immediately preceding or following the item.

Whenever there shall be filed with the Commission any schedule stating an individual or joint rate or other charge, classification, contract, practice, rule or regulation, the Commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate or other charge, classification, contract, practice, rule or regulation, and pending the hearing and the decision thereon, such rate or other charge, classification, contract, practice, rule or regulation shall not go into effect. The period of suspension of such rate or other charge, classification, contract, practice, rule or regulation shall not extend more than one hundred and twenty days beyond the time when such rate or other charge, classification, contract, practice, rule or regulation would otherwise go into effect unless the Commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. All such rates or other charges, classifications, contracts, practices, rules or regulations not so suspended shall, on the expiration of thirty days from the time of filing the same with the Commission, or of such lesser time as the Commission may grant, go into effect and be the established and effective rates or other charges, classifications, contracts, practices, rules and regulations, subject to the power of the Commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same. Within thirty days after such changes have been authorized by the Commission, copies of the new or revised schedules shall be posted or filed in accordance with the terms of Section 34 of this Act, in such a manner that all changes shall be plainly indicated.

§ 37. Except as in this Act otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product, or commodity furnished or to be furnished, or for any service ren-

dered or to be rendered, than the rates or other charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, except as provided in Section 35, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates or other charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons.

§ 38. No public utility shall, as to rates or other charges, services, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service.

Every public utility shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay.

§ 39. No public utility, or any officer or agent thereof, or any person acting for or employed by it shall directly or indirectly, by any device or means whatsoever, suffer or permit any corporation or person to obtain any service, commodity, or product at less than the rate or other charge then established and in force as shown by the schedules filed and in effect at the time. No person or corporation shall, directly or indirectly, by any device or means whatsoever, whether with or without the consent or connivance of a public utility or any of its officers, or employees, seek to obtain or obtain any service, commodity, or product at less than the rate or other charge then established and in force therefor. Nothing in this Act contained shall be construed to prevent any railroad or transportation company from selling or granting transportation or transportation privileges to the owner or owners of any newspaper or magazine of general circulation in payment of or in exchange for advertising space in such newspaper or magazine, at the full value thereof; and nothing in this Act contained shall be construed to prevent the issuance of free or reduced transportation by any street railroad corporation to mail carriers, policemen and members of fire departments, and nothing in this Act contained shall be construed to prevent any railroad

or transportation company from granting reduced rates for the transportation of any material or commodity to be used in the construction, maintenance or repair of public highways in the State. If prior to June 30, 1913, any real estate or other tangible property shall have been sold or transferred to any public utility or public service corporation, or if before that date, any obligation of any public utility or public service corporation created in consideration of the transfer to it of any real estate or other tangible property, shall have been released or cancelled, upon consideration in whole or in part of an agreement by such public utility or public service corporation expressed in writing to render any service or furnish any commodity or product in the future to the party or parties making such conveyance or transfer or owning such obligation, nothing in this Act contained shall be construed to in any wise affect such agreement or to prevent the performance or enforcement thereof according to its terms, or to authorize the Commission to interfere with such performance or enforcement.

§ 40. No common carrier subject to the provisions of this Act shall charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property for a shorter than for a longer distance over the same line or route in the same direction within this State, the shorter being included within the longer distance, or charge any greater compensation as a through rate than the aggregate of the intermediate rates; but this shall not be construed as authorizing any such common carrier to charge or receive as great a compensation for a shorter as for a longer distance or haul. Upon application to the Commission, any common carrier, may, in special cases, after investigation, be authorized by the Commission to charge less for a longer than for a shorter distance for the transportation of persons or property, and the Commission may from time to time prescribe the extent to which such carrier may be relieved from the operation and requirements of this section.

No telephone or telegraph company subject to the provisions of this Act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within the State, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate

rate or tolls; but this shall not be construed as authorizing any such telephone or telegraph company to charge and receive as great a compensation for a shorter as for a longer distance. Upon application to the Commission, a telephone or telegraph company may, in special cases, after investigation, be authorized by the Commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the Commission may from time to time prescribe the extent to which such telephone or telegraph company may be relieved from the operation and requirements of this section.

No other public utility shall without the consent of the Commission, charge or receive any greater compensation in the aggregate for a lesser commodity, product, or service than for a greater commodity, product or service of like character. The Commission may require telephone companies to file with it, maps or plats of their lines in this State and schedules showing the direct routing of all messages over their lines between points in this State; and may, upon investigation, fix such rates based upon distance and service.

§41. Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges, or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, contracts, or practices, or any of them, affecting such rates or other charges, or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provisions of law, or that such rates or other charges or classifications are insufficient, the Commission shall determine the just, reasonable or sufficient rates or other charges, classifications, rules, regulations, contracts or practices to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

The Commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate or other charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates or other charges, classifications, rules, regulations, contracts and practices, or any thereof of any public utility, and to establish new rates or other charges, classifications, rules, regulations, contracts or practices or schedule or schedules, in

lieu thereof. Nothing in this section or Act shall be construed to repeal "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict therewith," approved May 27, 1907, in force July 1, 1907.

§ 42. Whenever the Commission after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges or classifications in force over two or more common carriers, between any two points in this State, are unjust, unreasonable, or excessive, or that no satisfactory through route or joint rate or other charge, or classification exists between such points, and that the public convenience and necessity demand the establishment of a through route and joint rate or other charge, or classification between such points, the Commission may order such common carriers to establish such through route and may establish and fix a joint rate or other charge, or classification which will be just and reasonable, to be followed, charged, enforced, demanded and collected in the future, and the terms and conditions under which such through route shall be operated. The Commission may order that freight moving between such points shall be carried by the different common carriers, parties to such through route and joint rate, without being transferred from the originating cars. In case the common carriers do not agree upon the division between them of the joint rates or other charges established by the Commission over such through routes, the Commission shall, after hearing, by supplemental order, establish such division. Where any railroad which is made a party to a through route has itself over its own line an equally satisfactory through route between the termini of the through route established, such railroad shall have the right to require as its division of the joint rate or other charge its local rate or other charge over the portion of its lines comprised in such through route, and the Commission may, in its discretion, allow to such railroad more than its local rate or other charge whenever it will be equitable so to do. The shipper shall have the right to route his freight whenever through rate shall have been established either by the Commission or by the common carrier.

The Commission shall also have power, after a hearing had upon its own motion or upon complaint, to order any other public utilities to establish and fix reasonable and suffi-

cient joint rates or other charges, or classifications. In case such public utilities do not agree upon the division between them of such joint rates or other charges the Commission shall, after hearing, establish such division by supplemental order.

§43. The Commission shall have the power to investigate all existing or proposed inter-state rates or other charges, and classifications, and all rules and practices in relation thereto, of any public utility, where any act in relation thereto shall take place within this State; and when the same are, in the opinion of the Commission, excessive or discriminatory or in violation of the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, or of any other Act of Congress, or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, the Commission may apply by petition or otherwise to the Interstate Commerce Commission or to any court of competent jurisdiction for relief.

§44. Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars, loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. Every railroad company shall receive from every other railroad company having the same gauge track, at any point of connection, freight cars of proper standard and in proper condition, and shall haul the same either to destination, if the destination be upon a line owned, operated or controlled by such railroad company, or to point of transfer according to route billed, if the destination be upon the line of some other railroad company. But nothing in this Act shall be construed as requiring any common carrier to give the use of its terminal facilities to another common carrier engaged in like business.

Every telephone company and telegraph company operating in this State shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph company with which a joint rate has been established or with whose line a physical connection may have been made.

§45. Every railroad company, upon the application of any

corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, or of any corporation, person or municipal corporation owning, operating or controlling any wharf or harbor facilities, for a connection between the railroad of such railroad company and any existing or contemplated track, tracks or railroad of such corporation, person or municipal corporation, shall make such connection and provide such switches and tracks as may be necessary for that purpose and deliver and receive cars thereover: *Provided*, that such connection is reasonably practicable and can be installed and used without materially increasing the hazard of the operation of the railroad with which such connection is sought, and that the business which may reasonably be expected to be received by such railroad company over such connection is sufficient to justify the expense of such connection to such railroad company.

Under the conditions specified in the above proviso every railroad company, upon the application of any corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, shall construct upon its right of way a spur or spurs for the purpose of receiving and delivering freight thereby, and shall receive and deliver freight thereby.

Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that application has been made by any corporation or person to a railroad company for a connection or spur as provided in this section, and that the railroad company has refused to provide such connection or spur and that the applicant is entitled to have the same provided for him, such connection or spur and the maintenance and use of the same upon reasonable terms which the Commission shall have the power to prescribe. Whenever any such connection or spur has been so provided, any corporation or person shall be entitled to connect with the track, tracks or railroad thereby connected with the railroad of the railroad company, and to use the same or to use the spur so provided upon payment to the party or parties incurring the primary expenses of such track, tracks or railroad, or the connection therewith or of such spur, of a reasonable proportion of the cost thereof to be determined by the Commission after notice to the interested parties and a hearing thereon: *Provided*, that such connection and use can be made without unreasonable interference with the rights of the party or parties incurring such primary expense. The Commission shall likewise have the power to require one railroad company to switch its private spurs and industrial tracks upon its own

railroad the cars of a connection railroad company and to prescribe the terms and compensation for such service.

§46. Whenever the Commission shall find, after a hearing made upon complaint or upon its own motion, that the public convenience and necessity would be subserved by having track connections made, between any two or more railroads or between any two or more street railroads, the Commission shall order any such railroads or street railroads of the same or similar gauge to make physical connection at any and all crossings, and at all points where a railroad shall begin or terminate at or near any other railroad, and at all towns or cities where two or more railroads enter the limits of the same, so that the cars of any such railroad company may be speedily transferred from one railroad to another, and shall order whether the expense thereof shall be borne jointly or otherwise.

§47. Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall determine that public convenience and necessity require a physical connection for the establishment of a continuous line of communication between any two or more public utilities for the conveyance of messages or conversations, the Commission may, by order, require that such connection be made. If such public utilities do not agree upon the division between them of the cost of such physical connection or connections, the Commission shall have authority, after further hearing, to establish such division by supplemental order.

§48. Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that public convenience and necessity require the use by one public utility of the conduits, subway, tracks, wires, poles, pipes or other property or equipment, or any part thereof, on, over or under any street or highway, belonging to another public utility, and that such use will not prevent the owner or other users thereof from performing their public duties nor result in irreparable injury to such owner or other users of such conduits, subways, tracks, wires, poles, pipes or other property or equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the Commission may, by order, direct that such use be permitted and prescribe a reasonable compensation and reasonable terms and conditions for such joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users of such conduits, sub-

ways, tracks, wires, poles, pipes or other property or equipment, for such damage as may result therefrom to the property of such owner or other users thereof.

§ 49. Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public utility, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the Commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed and it shall fix the same by its order, decision, rule or regulation. The Commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility.

§ 50. Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made, or such structure or structures be erected in the manner and within the time specified in said order. If any additions, extentions, repairs, improvements or changes, or any new structure or structures which the Commission has ordered to be erected, require joint action by two or more public utilities, the Commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at the joint cost whereupon the said public utilities shall have such reasonable time as the Commission may grant within which to agree upon the apportionment or division of cost of such additions, extensions, repairs, improvements or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the Commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs,

improvements or changes, or new structure or structures, the Commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured.

§ 51. Whenever the Commission after a hearing had upon its own motion or upon complaint, shall find that any railroad or street railroad company does not run a sufficient number of trains or cars, or possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger, or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the Commission shall have power to make an order directing any such railroad or street railroad company to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train, or car, to change the stopping place or places thereof, or to make any other order that the Commission may determine to be reasonably necessary to accommodate and transport the traffic, passenger, or freight, transported or offered for transportation.

§ 52. Every railroad company shall, when within its power to do so, and upon reasonable notice, furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight in carload lots, and shall use reasonable diligence in moving freight and making deliveries thereof. In case of insufficiency of cars at any time to meet all requirements, such cars as are available shall be distributed among the several applicants therefor in proportion to their respective immediate requirements without discrimination between shippers, localities or competitive or non-competitive places: *Provided, however*, that preference may be given to shipments of live stock and perishable property. The Commission, after a hearing upon its own motion or upon complaint, may issue orders concerning the distribution of cars.

The Commission shall have power to fix and establish reasonable rates, rules and regulations regarding demurrage, storage, icing and all other charges incident to the transportation of property, and to fix and establish reasonable switching rules and regulations, and to establish reasonable limits for said switching and reasonable rates therefor; and shall have

power to provide proper rules and regulations regarding the time within which all railroads shall furnish after demand therefor, all cars, equipment and facilities necessary for the handling of freight, in carload and less than carload lots, the time within which consignors and persons ordering cars shall load the same, and the time within which consignees and persons to whom freight may be consigned shall unload and discharge the same and receive freight from the freight rooms, and to provide penalties to be paid for failure on the part of the railroads, consignors and consignees to conform to such rules. The Commission shall also have the power to provide the time within which express packages shall be received, gathered, transported and delivered at destination, and the limits within which express packages shall be gathered and distributed and telegraph and telephone messages delivered without extra charge.

The Commission shall have power to enforce reasonable regulations for the weighing of cars, and of freight offered for shipment over any line of railroad, and to test the weights made by any railroad and scales used in weighing freight on cars.

§ 53. The Commission is authorized to make rules and regulations concerning the conditions to be contained in and become a part of contracts for public utility services, and any and all services concerning the same, or connected therewith.

The Commission shall have authority to prescribe a form of receipt for each shipment by express, also a form of receipt for moneys paid for charges for the transportation by express of any article or thing, to be given upon receipt, or upon the payment of such charges.

Upon demand of a shipper each receiving or forwarding express company shall be required to furnish a receipt or other evidence in writing, in such form as may be prescribed by or approved by said Commission, stating the quantity, character, weight, order and condition of goods or articles tendered for shipment, and said express companies shall in like manner execute and furnish upon demand a receipt for the charges paid on any shipment, which shall cover substantially the following items: Date of shipment, name of consignor, name of connecting line or express company, name or description of each article or package covered by or in such receipt; the graduated scale or rate employed in making the rate or charge on such article or package, separately; the amount of charge on each article or package; the amount of advanced charges (if any); the sum total of charges to be

paid by the consignee. And any such express company is hereby prohibited from including in any such receipt for shipments to be made any restriction or evasion of the common law liability of such carrier.

§ 54. The Commission shall have power to ascertain, determine and fix for each kind of public utility suitable and convenient standard commercial units of service, product or commodity, which units shall be lawful units for the purposes of this Act; to ascertain, determine and fix adequate and serviceable standards for the measurements of quantity, quality, pressure, initial voltage or other condition pertaining to the performing of its service or to the furnishing of its product or commodity by any public utility, and to prescribe reasonable regulations, for examining, measuring and testing such service, product or commodity, and to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for examining, measuring, or testing such service, product or commodity. The Commission may purchase such materials, apparatus and standard measuring instruments as it deems necessary to carry out the provisions of this section.

The Commission shall provide for the inspection of the manner in which every public utility conforms to the reasonable regulations prescribed by the Commission for examining, measuring and testing its service, product or commodity, and the Commission may supplement such inspections by examining, measuring and testing the service, product or commodity of any public utility. Any consumer or user may have tested any appliance for examining, measuring or testing any such service, product or commodity upon payment of the fees fixed by the Commission. The Commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the measuring appliance be found unreasonably defective or incorrect to the disadvantage of the consumer or user.

The Commissioner, its officers, agents, experts or inspectors and employees shall have power to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in this Act, and to set up and use on such premises, any apparatus and appliances and occupy reasonable space therefor.

§ 54a. The Commission shall require that every public utility furnishing natural or artificial gas, electricity or water to the public, where the individual consumption is measured by meter, shall, upon written request of any consumer, cause the meter reader at the time of reading such consumer's meter to leave at such meter a card showing the present reading of the meter, the last previous reading, and the dates of such two readings.

§ 55. No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or in extension thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction.

No public utility not owning any city or village franchise nor engaged in performing any public service or in furnishing any product or commodity within this State and not possessing a certificate of public convenience and necessity from the State Public Utilities Commission or the Public Utilities Commission, at the time this Act goes into effect shall transact any business in this State until it shall have obtained a certificate from the Commission that public convenience and necessity require the transaction of such business.

Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto it shall have the power to issue certificates of public convenience and necessity.

Such certificates may be altered or modified by the Commission, upon its own motion or upon application by the person or corporation affected. Unless exercised within a period of two years from the grant thereof authority conferred by a certificate of convenience and necessity issued by the Commission shall be null and void.

No certificate of public convenience and necessity shall be construed as granting a monopoly or an exclusive privilege, immunity or franchise.

§ 55a. No person shall operate any motor vehicle, along or upon any public street or highway in this State, for the carriage of passengers for hire, indiscriminately accepting and discharging such persons as may offer themselves for transportation, along the course on which such vehicle is operated, or for the carriage of freight for hire, indiscriminately accepting and delivery such freight, as may be offered for transportation along such course, unless he shall—

(1) File with the Commission, a sworn statement of his ability to pay all damages which may result from any and all accidents due to the negligent use or operation of such vehicle; **or**

(2) File with the Commission security, indemnity or a bond guaranteeing the payment by him of all such damages; or

(3) Insure to a reasonable amount his liability to pay such damages; and unless he shall

(4) File with the Commission, as often as the Commission shall in writing demand, in form prescribed by the Commission, evidence of his compliance with the provisions of this section.

And in case one person operates two or more motor vehicles for such purpose or purposes, he shall file proof of his ability to pay damages, or security, indemnity or bond or insurance against damages, to the amount of ten thousand dollars ($10,000) for each motor vehicle so operated, and shall make such proof or furnish such security, indemnity, bond or insurance to cover all the motor vehicles at one and the same time.

§ 55b. The sworn statement of financial ability, security, indemnity, bond or amount of insurance, shall be subject to the approval of the Commission, and upon the approval thereof, the Commission shall send a written notice of such approval to the person submitting the same for approval. The filing with the Commission of evidence of compliance with Section 55a of this Act shall constitute such compliance until ten days after written notice of disapproval thereof has been sent by the Commission to the person submitting such evidence.

§ 55c. Whenever the Commission, refuses to approve the sworn statement of financial ability, security, indemnity, bond or amount of insurance, above mentioned, the person presenting such for approval may, within thirty days thereafter, file a petition in the circuit court of Sangamon County, against the Commission as defendant, alleging therein under oath and in brief detail, the plaintiff's right to operate such motor vehicle in the manner mentioned in Section 55a hereof, and praying that the Commission be required to approve such sworn statement of financial ability, security, indemnity, bond or amount of insurance. The court may make such orders and decrees as the equities and exigencies of the case may require. Judgment against the plaintiff shall be final, but shall not bar his right to file new statements or documents under the provisions of this Act.

§ 56. Every public utility shall file with the Commission, under such rules and regulations as the Commission may prescribe, a report of every accident occurring, or that may occur, to or on its plant, equipment, or other property of such a nature as to endanger the safety, health or property of any person: Whenever any accident occasions the loss of life or limb to any person, such public utility shall immediately give notice to the Commission of the fact by the speediest means of communication, whether telephone, telegraph or post.

The Commission shall investigate all accidents occurring within this State upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the Commission, investigation by it, and shall have the power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable. Neither the order nor recommendation of the Commission nor any accident report filed with the Commission shall be admitted in evidence in any action for damages based on or arising out of the loss of life, or injury to person or property, in this section referred to.

§ 57. The Commission shall have power, after a hearing and upon its own motion, or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its plant, equipment or other property in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand.

Whenever it shall come to the knowledge of the Commission that the equipment or appliances, or the apparatus, track, bridges, trestles or other structures of any common carrier are out of repair or in an unsafe condition, it shall, after an investigation, give notice in writing to the common carrier of the improvements and changes deemed necessary to place the same in a safe condition, and shall recommend to the common carrier that it make such repairs, changes, improvements or

new constructions as the Commission shall deem necessary to the safety of persons and property being transported thereon. The Commission shall give such common carrier an opportunity for a full hearing, and unless the common carrier shall satisfy the Commission that no action is required to be taken with respect to any or all of such matters the Commission shall fix a time within which repairs, changes, improvements or new construction deemed by it necessary shall be made. The Commission may also prescribe the rate of speed for trains or cars passing over defective tracks, bridges, trestles or other structures until repairs or new construction required are made; and may, if, in its opinion, it is needful or proper, forbid the running of trains or cars over any defective track, bridge, trestle or other structure until the same be repaired and placed in a safe condition.

§ 58. No public road, highway, or street shall hereafter be constructed across the track of any railroad company at grade, nor shall the track of any railroad company be constructed across a public road, highway or street at grade, nor shall the track of any railroad company be constructed across the track of any other railroad or street railroad company at grade, nor shall the track of a street railroad company be constructed across the track of a railroad company at grade, without having first secured the permission of the Commission. *Provided*, that this section shall not apply to the replacement of lawfully existing roads, highways and tracks. The Commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe. The Commission shall have power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each such grade crossing.

The Commission shall also have power, after a hearing, to alter or abolish any grade crossing, heretofore or hereafter established, when in its opinion the public safety requires such alteration or abolition; or to require a separation of grades at such crossings; or to require a separation of grades at any proposed crossing where a proposed public highway may cross the tracks of any railroad or railroads; and to prescribe, after a hearing of the parties, the terms upon which such separation shall be made and the proportion in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad companies affected, or between such companies and the State, county, municipality or other

public authority in interest: *Provided*, that nothing in this Act shall be construed to repeal "an Act in relation to the crossing of one railroad by another," approved May 25, 1907, in force July 1, 1907.

The Commission shall also have power by its order to require the reconstruction, alteration, relocation or improvement of any crossing (including the necessary highway approaches thereto) of any railroad across any highway or public road, whether such crossing be at grade or by overhead structure or by subway, whenever the commission finds after a hearing that such reconstruction, alteration, relocation or improvement is necessary to preserve or promote the safety of the public or of the employees or passengers of such railroad. By its original order or supplemental orders in such case, the Commission may direct such reconstruction, alteration, relocation or improvement to be made in such manner and upon such terms and conditions as may be reasonable and necessary and may apportion the cost of such reconstruction, alteration, relocation or improvement between the railroad company or companies and other public utilities affected, or between such company or companies and other public utilities and the State, county, municipality, or other public authority in interest. The cost to be so apportioned shall include the cost of changes or alterations in the equipment of other public utilities affected as well as the cost of the relocation, diversion or establishment of any public highway, made necessary by such reconstruction, alteration, relocation or improvement of said crossing.

Whenever the Commission, after a hearing, shall find it necessary for the reconstruction, alteration, relocation or improvement of any such crossing or its necessary approaches as aforesaid, or for the abolishment of any such crossing, to relocate, divert, or establish any highway or public road, or to acquire additional property for any such purpose, it may direct the railroad company or companies to acquire, and the railroad company or companies shall acquire, the necessary additional property for such purposes by purchase or, when the price to be paid can be agreed upon with the owner thereof, in the manner provided by the law of eminent domain; or the Commission may certify such finding to the highway commissioners of the town or road district concerned. Every railroad company operating in the State of Illinois shall construct and maintain every highway grade crossing over its tracks within the State so that the roadway at the intersection shall be flush with the rails, and, unless otherwise ordered by the Commis-

sion, shall construct and maintain the approaches thereto at a grade of not more than five (5) per cent within the right of way for a distance of not less than twenty-five (25) feet on each side of such tracks: *provided*, that the grades at the approaches may be maintained in excess of five (5) per cent only when authorized by the Commission.

Every railroad operating within the State of Illinois shall remove from its right of way at all grade crossings within the State, all brush, shrubbery and trees for a distance of not less than five hundred (500) feet in either direction from each grade crossing.

Every railroad operating within the State of Illinois shall maintain in a conspicuous place at every grade crossing on its lines in this State outside of cities on both sides of the tracks except when otherwise ordered and at such points as directed by the Illinois Commerce Commission within the right of way of such railroad, at grade crossings not designated as extra hazardous by the Commission such standard signs as the Illinois Commerce Commission shall determine.

At all such grade crossings in the State as may be designated by the Commission as extra hazardous, but at no others, every railroad operating within the State of Illinois shall, within thirty days after the issuance of an order by the Illinois Commerce Commission directing it so to do, erect and thereafter maintain such standard stop signs as said Commission shall determine are necessary, provided that no such sign shall be ordered or permitted by the Commission where there is a clear view from the highway of approaching trains on such railroad tracks for at least five hundred (500) feet in each direction from the crossing at all points on the highway within a distance of two hundred (200) feet of such crossing. The Commission shall have power to require such signs to be lighted at night or to be accompanied by red warning lights whenever in the opinion of the Commission such additional precautions are reasonably necessary for the public safety.

Any person who unlawfully removes, throws down, injures or defaces any sign required in this section, shall be liable to a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) for each offense.

§ 59. When necessary for the construction of any alterations, additions, extensions or improvements ordered or authorized under sections 50 or 58 or subdivision (a) of section 81 of this Act, any public utility may enter upon, take or damage private property in the manner provided for by the law of eminent domain.

Article V.

PROCEEDINGS BEFORE THE COMMISSION AND IN THE COURTS.

§ 60. The Commission, or any commissioner, assistant commissioner, or officer of the Commission designated by the Commission, shall have power to hold investigations, inquiries and hearings concerning any matters covered by the provisions of this Act, or by any other Acts, relating to public utilities subject to such rules and regulations as the Commission may establish. In the conduct of any investigation, inquiry or hearing neither the Commission nor any commissioner, assistant commissioner or officer of the Commission shall be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking testimony before the Commission, any commissioner, assistant commissioner or an officer of the Commission shall invalidate any order, decision, rule or regulation made, approved, or confirmed by the Commission. All hearings conducted by the Commission shall be open to the public.

Each commissioner, each assistant commissioner, the secretary of the Commission, and every officer of the Commission designated by it to hold any inquiry, investigation or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, accounts and documents.

Hearings shall be held either by the Commission or by one or more commissioners, or assistant commissioners. All evidence presented at hearings held by the Commission or under its authority shall become a part of the records of the Commission. In all cases in which the Commission bases any action on reports of investigations or inquiries not conducted as hearings, such reports shall be made a part of the records of the Commission.

§ 61. No person shall be excused from testifying or from producing any papers, books, accounts or documents in any investigation or inquiry or upon any hearing ordered by the Commission when ordered to do so by the Commission or any commissioner, assistant commissioner, or officer of the Commission, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for

or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before the Commission or a commissioner, assistant commissioner, or an officer of the Commission: *Provided*, that such immunity shall extend only to a natural person, who in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§62. All subpoenas issued under the terms of this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State, such fees to be paid when the witness is excused from further attendance, when the witness is subpoenaed at the instance of the Commission, or any commissioner or assistant commissioner; and the disbursements made in the payment of such fees shall be audited and paid in the same manner as are other expenses of the Commission. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the Commission, the Commission may require that the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned, and the Commission shall have power, in its discretion, to require a deposit to cover the cost of such service and witness fees and the payment of the legal witness fee and mileage to the witness when served with subpoena. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

Any person who shall be served with a subpoena to appear and testify, or to produce books, papers, accounts or documents, issued by the Commission or by any commissioner, assistant commissioner or officer of the Commission, in the course of an inquiry, investigation or hearing conducted under any of the provisions of this Act, and who shall refuse or neglect to appear, or to testify, or to produce books, papers, accounts and documents relevant to said inquiry, investigation or hearing as commanded in such subpoena, shall be guilty of a misdemeanor.

Any circuit court of this State, or any judge thereof, either in term time or vacation, upon application of the Commission, or a commissioner, assistant commissioner or officer of the Commission, may, in his discretion, compel the attendance of witnesses, the production of books, papers, accounts and documents, and the giving of testimony before the Commis-

sion, or before any such commissioner, assistant commissioner, or officer, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before said court.

The Commission or a commissioner, assistant commissioner, or officer of the Commission or any party may in any investigation or hearing before the Commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this State and to that end may compel the attendance of witnesses and the production of papers, books, accounts and documents.

The Commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this State at such time and place as it may designate, of any books, accounts, papers or documents kept by any public utility operating within this State in any office or place without this State, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the Commission or under its direction.

§63. The Commission, each commissioner, assistant commissioner and each officer and employee of the Commission properly authorized thereby shall have the right, at any and all times to inspect the papers, books, accounts and documents, plant, equipment or other property of any public utility, and the Commission, each commissioner, assistant commissioner, and officer of the Commission authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to any matter within the jurisdiction of the Commission. A person other than a commissioner, or assistant commissioner demanding such inspection shall produce under the seal of the Commission his authority to make such inspection. A written record of the testimony or statement so given under oath shall be made and filed with the Commission. Information so obtained shall not be admitted in evidence or used in any proceeding except in proceedings provided for in this Act.

Any party to a proceeding before the Commission shall have the right to inspect the records of all hearings, investigations or inquiries conducted by or under the authority of the Commission, which may relate to the issues involved in such proceeding; and to submit suggestions as to other matters to be investigated or as to questions to be propounded. If the Commission is satisfied that such suggested investi-

gation should be made or such suggested questions answered, and that the information desired is within the power of either party to furnish, it shall enter an order requiring the investigation to be made or the questions to be answered, and upon failure or refusal to comply with such order, the Commission shall either refuse to grant the relief prayed for by the party refusing to comply, or may grant the relief prayed for by the opposing party against the party refusing to comply.

§64. Complaint may be made by the Commission, of its own motion or by any person or corporation, chamber of commerce, board of trade, or any industrial, commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation by petition or complaint in writing, setting forth any act or things done or omitted to be done in violation, or claimed to be in violation, of any provision of this Act, or of any order or rule of the Commission. In the discretion of the Commission, matters presented by one complaint may be ordered separated, and matters upon which complaint may be founded may be joined. No objection shall be sustained to a separation merely because the matters separated are under the ownership, control or management of the same persons or corporation. No complaint shall be dismissed because of the absence of direct damage to the complainant.

Upon the filing of a complaint the Commission shall cause a copy thereof to be served upon the person or corporation complained of which shall be accompanied by a notice requiring that the complaint be satisfied and answered within a reasonable time to be specified by the Commission, or within the discretion of the Commission, by a notice fixing a time when and place where a hearing will be had upon such complaint. Notice of the time and place shall also be given to the complainant and to such other persons as the Commission shall deem necessary. The Commission shall have authority to hear and investigate any complaint notwithstanding the fact that the person or corporation complained of may have satisfied the complaint.

The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint except as herein provided. Service in all hearings, investigations, and proceedings before the Commission may be made upon any person upon whom a summons may be served in accordance with the provisions of "An Act in relation to practice and procedure in courts of record,"

approved June 3, 1907, in force July 1, 1907, and may be made personally or by mailing same in the United States mail in a sealed envelope, registered, with postage prepaid. The provisions of this section as to notice shall apply to all hearings held by the Commission or under its authority.

Any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases.

All cities shall have power to appear as complainants or to make application before the Illinois Commerce Commission for an inquiry, investigation or hearing relating to the rates or other charges or services of public utilities within such city; and in case of any inquiry, investigation or hearing by or before the Illinois Commerce Commission on any matter relating to the rates or other charges or services within any city, the city shall receive written notice not less than ten days before such inquiry, investigation or hearing and shall be entitled to appear and present evidence relating to the subject-matter of such inquiry, investigation or hearing. Such notice shall be served upon the city clerk, and upon the city attorney or head of the law department of the city.

§ 65. At the time fixed for any hearing upon a complaint, the complainant and the person or corporation complained of, and such persons or corporations as the Commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The Commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing the Commission shall make and render findings concerning the subject-matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the Commission, shall be served upon the person or corporation complained of, or his or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the Commission. Where an order cannot, in the judgment of the Commission, be complied with within twenty days, the Commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record shall be pre-

served of all proceedings had before the Commission, or any member thereof, or any assistant commissioner, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the Commission, and the parties shall be entitled to be heard in person or by attorney.

In case of an appeal from any order or decision of the Commission, under the terms of sections 68 and 69 of this Act, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the Commission on its own initiative and considered by it in rendering its order or decision (and required by this Act to be made a part of its records) and of the pleadings, records and proceedings in the case, shall constitute the record of the Commission: *Provided,* that on appeal from an order or decision of the Commission, the person or corporation taking the appeal and the Commission may stipulate that a certain question or certain questions alone and a specified portion only of the evidence shall be certified to the court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on appeal.

Copies of all official documents and orders filed or deposited according to law in the office of the Commission, certified by a commissioner or by the secretary of the Commission to be true copies of the originals, under the official seal of the commission, shall be evidence in like manner as the originals.

In any matter concerning which the Commission is authorized to hold a hearing, upon complaint or application or upon its own motion, notice shall be given to the public utility and to such other interested persons as the Commission shall deem necessary in the manner provided in the preceding section, and the hearing shall be conducted in like manner as if complaint had been made to or by the Commission. But nothing in this Act shall be taken to limit or restrict the power of the Commission, summarily, of its own motion, with or without notice, to conduct any investigations or inquiries authorized by this Act, in such manner and by such means as it may deem proper, and to take such action as it may deem necessary in connection therewith. With respect to any rules, regulations, decisions or orders which the Commission is authorized to issue without a hearing, and so issues, any public utility or other person or corporation affected thereby and deeming such rules, regulations, decisions or orders, or any of them, improper, unreasonable

or contrary to law, may apply for a hearing thereon, setting forth specifically in such application every ground of objection which the applicant desires to urge against such rule, regulation, decision or order. The Commission may, in its discretion, grant or deny the application, and a hearing, if had, shall be subject to the provisions of this and the preceding sections.

§ 66. Every order of the Commission shall be served upon every person or corporation to be affected thereby, either by personal delivery of a certified copy thereof, or by mailing in the United States mail a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby or in the case of a corporation, to any officer or agent thereof upon whom a summons of a court of record may be served in an action at law. It shall be the duty of every person and corporation to notify the Commission forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of the Commission every person and corporation upon whom it is served must, if so required in the order, notify the Commission in like manner whether the terms of the order are accepted and will be obeyed.

§ 67. Anything in this act to the contrary nothwithstanding, the Commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any rule, regulation, order or decision made by it. Any order rescinding, altering or amending a prior rule, regulation, order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original rules, regulations, orders or decisions. Within thirty days after the service of any rule or regulation, order or decision of the Commission any party to the action or proceeding may apply for a rehearing in respect to any matters determined in said action or proceeding and specified in the application for rehearing. The Commission shall receive and consider such application and shall grant or deny such application within twenty days from the date of the receipt thereof by the Commission. In case the application for rehearing is granted the Commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any rule,

regulation, order or decision of the Commission unless and until an application for a rehearing, thereof shall first have been filed with and acted upon by the Commission. An application for rehearing shall not excuse any corporation or person from complying with and obeying any rule, regulation, order or decision or any requirement of any rule, regulation, order or decision of the Commission theretofore made, or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the Commission may by order direct. If, after such rehearing and consideration of all the facts, including those arising since the making of the rule, regulation, order or decision, the Commission shall be of the opinion that the original rule, regulation, order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the Commission may rescind, alter or amend the same. A rule, regulation, order or decision made after such rehearing, rescinding, altering or amending the original rule, regulation, order or decision shall have the same force and effect as an original rule, regulation, order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original rule, regulation, order or decision unless so ordered by the Commission. Only one rehearing shall be granted by the Commission; but this shall not be construed to prevent any party from filing a petition setting up a new and different state of facts after two years, and invoking the action of the Commission thereon.

§ 68. Within thirty days after the service of any order or decision of the Commission refusing an application for a rehearing of any rule, regulation, order or decision of the Commission, or within thirty days after the service of any final order or decision of the Commission upon and after a rehearing on any rule, regulation, order or decision of the Commission, any person or corporation affected by such rule, regulation, order or decision, may appeal to the circuit or superior court of the county in which the subject matter of the hearing is situated, or if the subject-matter of the hearing is situated in more than one county, then of any one of such counties, for the purpose of having the reasonableness or lawfulness of the rule, regulation, order or decision inquired into and determined. The court first acquiring jurisdiction of any appeal from any rule, regulation, order or decision shall have and retain jurisdiction of such appeal and of all further appeals from the same rule, regulation,

order or decision until such appeal is disposed of in such circuit or superior court. No proceeding to contest any rule, regulation, decision or order which the Commission is authorized to issue without a hearing and has so issued shall be brought in any court unless application shall have been first made to the Commission for a hearing thereon and until after such application has been acted upon by the Commission, nor shall any person or corporation in any court urge or rely upon any grounds not set forth in such application for a hearing before the Commission, but the Commission shall decide the questions presented by said application with all possible expedition consistent with the duties of the Commission. The party taking such an appeal shall file with the secretary of the Commission written notice of said appeal. The Commission, upon the filing of such notice of appeal, shall, within five days thereafter, file with the clerk of the circuit or superior court to which such appeal is taken a certified copy of the order appealed from and within twenty days thereafter the record provided for in section 65. The party serving such notice of appeal shall, within five days after the service of such notice upon the Commission, file a copy of said notice, with proof of service, with the clerk of said court to which such appeal is taken, and thereupon said circuit or superior court shall have jurisdiction over said appeal and the same shall be entered upon the records of said circuit or superior court and shall be tried therein without formal pleadings, but otherwise according to the rules relating to the trial of chancery suits, so far as the same are applicable.

A circuit or superior court to which any such appeal is taken shall have the power, and it shall be its duty, in term time or vacation, to hear and determine such appeal with all convenient speed. No new or additional evidence may be introduced in any proceeding upon appeal from a rule, regulation, order or decision of the Commission, issued or confirmed after a hearing, but the appeal shall be heard on the record of the Commission as certified to by it. The findings and conclusions of the Commission on questions of fact shall be held *prima facie* to be true and as found by the Commission; and a rule, regulation, order or decision, of the Commission shall not be set aside unless it clearly appears that the finding of the Commission was against the manifest weight of the evidence presented to or before the Commission for and against such rule, regulation, order or decision, or that the same was without the jurisdiction of the Com-

mission. If it appears that the Commission failed to receive evidence properly proffered, on a hearing or a rehearing, or an application therefor, the court shall remand the case to the Commission with instructions to receive the testimony so proffered and rejected, and to enter a new order based upon the evidence theretofore taken, and such new evidence as it is directed to receive, unless it shall appear that such new evidence would not be controlling, in which case the court shall so find in its order. Rules, regulations, orders or decisions of the Commission shall be held to be *prima facie* reasonable, and the burden of proof upon all issues raised by the appeal shall be upon the person or corporation appealing from such rules, regulations, orders or decisions.

When no appeal is taken from a rule, regulation, order or decision of the Commission, as herein provided, parties affected by such rule, regulation, order or decision shall be deemed to have waived the right to have the merits of said controversy reviewed by a court and there shall be no trial of the merits of any controversy in which such rule, regulation, order or decision was made, by any court to which application may be made for a writ to enforce the same, or in any other judicial proceeding.

§ 69. Appeals from all final orders and judgments entered by the said circuit or superior court, in review of rules, regulations, orders or decisions of the Commission, may be taken directly to the Supreme Court by either party to the action, within sixty days after service of a copy of the order or judgment of said circuit or superior court, and shall be governed by the rules applying to chancery cases appealed to said Supreme Court, except that formal pleadings shall not be required.

§ 70. Any proceeding in any court in this State directly affecting a rule, regulation, order or decision of the Commission, or to which the Commission is a party, shall have priority in hearing and determination over all other civil proceeding pending in such court, excepting election contests.

§ 71. The pendency of an appeal shall not of itself stay or suspend the operation of the rule, regulation, order or decision of the Commission, but during the pendency of such appeal the circuit or superior court, or the Supreme Court, as the case may be, in its discretion may stay or suspend, in whole or in part, the operation of the Commission's rule, regulation, order or decision.

No order so staying or suspending a rule, regulation, order or decision of the Commission shall be made by the

court otherwise than upon three days' notice to the Commission and after a hearing, and if the rule, regulation, order or decision of the Commission is suspended, the order suspending the same shall contain a specific finding based upon evidence submitted to the court, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage.

When any rate or other charge has been in force for any length of time exceeding one year, and such rate or other charge is advanced by the public utility and the order of the Commission reinstates such prior rate or other charge, in whole or in part, no suspending order shall be allowed in any case from such order pending the final determination of the case in the circuit and superior court, or if appealed to the Supreme Court by such Supreme Court.

In case the rule, regulation, order or decision of the Commission is stayed or suspended, the order of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the Commission (or approved, on review, by the court) payable to the people of the State of Illinois, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the rule, regulation, order or decision of the Commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity, or service in excess of the charges fixed by the rule, regulation, order or decision of the Commission, in case said rule, regulation, order or decision is sustained. However, no bonds shall be required in the case of any stay or suspension granted on application, of the State, or of any city or other governmental body. The court, in case it stays or suspends the rule, regulation, order or decision of the Commission in any manner affecting rates or other charges or classifications, may, in its discretion, also by order direct the public utility affected to pay into court, from time to time thereto to be impounded until the final decision of the case or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money, which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to

pay if the rule, regulation, order or decision of the Commission had not been stayed or suspended.

§ 72. When complaint has been made to the Commission concerning any rate or other charge of any public utility and the Commission has found, after a hearing, that the public utility has charged an excessive or unjustly discriminatory amount for its product, commodity or service, the Commission may order that the public utility make due reparation to the complainant therefor, with interest at the legal rate from the date of payment of such excessive or unjustly discriminatory amount.

If the public utility does not comply with an order of the Commission for the payment of money within the time fixed in such order, the complainant, or any person for whose benefit such order was made, may file in any court of competent jurisdiction a petition setting forth briefly the causes for which he claims damages and the order of the Commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the order of the Commission shall be *prima facie* evidence of the facts therein stated. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the action.

All complaints for the recovery of damages shall be filed with the Commission within two years from the time the product, commodity or service as to which complaint is made was furnished or performed, and a petition for the enforcement of an order of the Commission for the payment of money shall be filed in the proper court within one year from the date of the order.

The remedy provided in this section shall be cumulative, and in addition to any other remedy or remedies in this Act provided in case of failure of a public utility to obey a rule, regulation, order or decision of the Commission.

The Commission shall have a power to receive complaints regarding loss or damage occasioned by a public utility, and to make inquiry as to the methods of adjusting such claims. All claims against any public utility for loss of, or damage to property, or for any other loss or damage, in connection with a public utility service, not covered by the preceding paragraphs of this section, if not acted upon within ninety days from the date of the filing of the claim with the public utility, may be investigated by the Commission, in its discretion, and the results of such investigation

shall be embodied in a special report which shall be open to public inspection.

§ 73. In case any public utility shall do, or cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done either by any provisions of this Act or any rule, regulation, order or decision of the Commission, issued under authority of this Act, such public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was wilful, the court may in addition to the actual damages, award damages for the sake of example and by the way of punishment. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation.

In every case of a recovery of damages by any person or corporation under the provision of this section, the plaintiff shall be entitled to a reasonable counsel's or attorney's fee to be fixed by the court, which fee shall be taxed and collected as part of the costs in the case.

No recovery in this section provided shall in any manner affect a recovery by the State of the penalties in this Act provided.

§ 74. This Act shall not have the effect to release or waive any right of action by the State, the Commission, or by any body politic, municipal corporation, person or corporation for any right or penalty which may have arisen or accrued or may hereafter arise or accrue under any law of this State.

All penalties accruing under this Act shall be cumulative of each other, and suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution against any public utility, or any officer, director, agent or employee thereof, or any other corporation or person.

§ 75. Whenever the Commission shall be of the opinion that any public utility is failing or omitting or about to fail or omit, to do anything required of it by law, or by any order, decision, rule, regulation, direction or requirement of the Commission, issued or made under authority of this Act, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or any order, decision, rule,

regulation, direction or requirement of the Commission, issued or made under authority of this Act, the Commission shall commence an action or proceeding in the circuit or superior court or in any other court of concurrent jurisdiction in and for the county in which the case or some part thereof arose, or in which the person or corporation complained of, if any, has its principal place of business, or in which the person complained of, if any, resides, in the name of the People of the State of Illinois, for the purpose of having such violation or threatened violation stopped and prevented, either by mandamus or injunction. The Commission shall begin such action or proceeding by petition to such circuit or superior court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public utility complained of must answer the petition, and in the meantime said public utility may be restrained. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken from such final judgment in the same manner and with the same effect, subject to the provisions of this Act, as appeals are taken from judgments of the circuit or superior court in other actions for mandamus or injunction.

§ 76. Any public utility or any corporation other than a public utility, which violates or fails to comply with any provisions of this Act, or which fails to obey, observe or comply with any order, decision, rule, regulation, direction, or requirement or any part or provision thereof, of the Commission, made or issued under authority of this Act, in a case in which a penalty is not otherwise provided for in this Act, shall, upon conviction, be punished by a fine of not less than five hundred dollars nor more than two thousand dollars for each and every offense.

Every violation of the provisions of this Act or of any order, decision, rule, regulation, direction or requirement of the Commission, or any part or portion thereof by any corporation or person is a separate and distinct offense and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

In construing and enforcing the provisions of this Act relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility acting within the scope of his official duties or employment, shall in every case be deemed to be the act, omission, or failure of such public utility.

§ 77. Every person who, either individually, or acting as an officer, agent or employee of a public utility or of a corporation other than a public utility, violates or fails to comply with any provision of this Act, or fails to observe, obey or comply with any order, decision, rule, regulation, direction or requirement, or any part or portion thereof, of the Commission, made or issued under authority of this Act, or who procures, aids or abets any public utility in its violation of this Act or in its failure to obey, observe or comply with this Act or any such order, decision, rule, regulation, direction, or requirement, or any part or portion thereof, in a case in which a penalty is not otherwise provided for in this Act, is guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

§ 78. Except as otherwise provided in this Act, actions to recover penalties under this Act shall be brought in the name of the People of the State of Illinois in the Circuit or Superior Court in and for the county in which the cause or some part thereof, arose, or in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides. Such action shall be commenced and prosecuted to final judgment by the Commission. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered. In all such actions, the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the State in any such action shall be paid into the State treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the Commission upon such terms as the court shall approve and order.

§ 79. It is hereby made the duty of the Commission to see that the provisions of the Constitution and statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected, and to this end it may sue in the name of the People of the State.

§ 80. The Commission is hereby authorized to hear and determine all applications for the cancellation of warehouse licenses in this State which may be issued in pursuance of any laws of this State, and for that purpose to make and adopt such rules and regulations concerning such hearing and determination as may, from time to time, by it be deemed proper. And if, upon such hearing, it shall appear that any public warehouseman has been guilty of violating any law of this State concerning the business of public warehouseman, the Commission may cancel and revoke the license of said public warehouseman, and immediately notify the officer who issued such license of such revocation and cancellation; and no person whose license as a public warehouseman shall be cancelled or revoked shall be entitled to another license or carry on the business in this State of such public warehouseman until the expiration of six months from the date of such revocation and cancellation, and until he shall have again been licensed: *Provided*, that this section shall not be construed so as to prevent any such warehouseman from delivering any grain on hand at the time of such revocation or cancellation of his said license. And all licenses issued in violation of the provisions of this section shall be deemed null and void.

ARTICLE VI.

LOCAL UTILITIES

§ 81. Subject to the provisions of this Article, each city shall have power with respect to public utilities furnishing services, products, or commodities within the limits of such city, except railroads constituting or used as a part of a trunk line railroad system:

(a) To regulate the quality, adequacy, and safety of any service, product or commodity rendered or furnished within such city by any such public utility; and to require such

public utility to make such additions and extensions to its plant, equipment and property within said city as shall be reasonable and necessary in the interest of the public.

(b) To determine and prescribe just and reasonable rates or other charges for any service, product or commodity rendered or furnished within such city by any such public utility, and to prevent unjust and unreasonable discrimination in rates or other charges and in services within such city by any such public utility.

(c) To examine such public utilities and keep informed as to their general condition, the method of conducting their business, and their compliance with the provisions of law, with the requirements of their charters, franchises, licenses or permits, and with any orders issued under the provisions of this Act.

(d) To adopt reasonable and proper rules and regulations relative to the exercise of its powers, and to regulate the manner of conducting all investigations and hearings, and to alter and amend the same.

Any city exercising powers under this Article shall with respect to public utilities under its jurisdiction have all the powers and perform all the duties imposed by this Act upon the Illinois Commerce Commission, except with respect to sections 11, 13 to 29, both inclusive, 31, 43, 45, 52, 58 and 80 of this Act, the jurisdiction conferred by which sections shall remain with the Illinois Commerce Commission. No numeration of powers contained in this section shall be construed as in any manner limiting the powers conferred upon the city by the terms of this section. In all cases in which this Act grants powers to or imposes duties upon the Illinois Commerce Commission, or imposes duties, obligations or liabilities upon public utilities; or provides for proceedings before the Commission or in the courts under Article V of this Act; or provides for civil damages, criminal penalties or for remedies of any character; such provisions shall (except as otherwise specified herein) apply as nearly as may be to cities in the exercise of powers and the performance of duties under this Article; and this Article is intended to apply all such provisions to such cities as fully as if the word "city" were substituted for "Illinois Commerce Commission" or "Commission" in each such case.

Any city exercising powers under this Act shall have authority to exercise such powers by municipal ordinance, or otherwise, as such city shall determine.

All actions to recover fines and penalties under this Article shall be brought in the name of the city under whose jurisdiction the cause of action arose, and the amount recovered shall be paid into the city treasury to the credit of the general fund.

The powers conferred by this Act upon cities shall not apply to nor control transactions by or with any transportation district organized under the laws of this State.

Nothing in this Act shall be construed to limit or restrict powers now or hereafter granted to cities to pass ordinances for the protection of the public health, safety, comfort, and general welfare or governing the regulation, control or occupation of streets, highways and public property within the city. Nothing in this Act shall be construed to limit or restrict the powers granted to cities by this Article, nor to extend the jurisdiction of the Illinois Commerce Commission over the matters covered by this Article except as herein provided.

Nothing in this Article shall be construed to conflict with powers conferred by this Act upon the Illinois Commerce Commission so far as the exercise of such powers by the Commission is necessary or appropriate to its authority with respect to public utilities under the jurisdiction of the Commission.

§ 82. Every public utility under the jurisdiction of a city shall file with such city, acquiring jurisdiction over such utility copies of all reports made by such public utility to the Illinois Commerce Commission after such jurisdiction is acquired. The city shall have authority to require any such public utility to file monthly reports of earnings and expenses, and such other periodical or special or periodical and special reports concerning any mattter about which the city is authorized by law to keep itself informed, and shall have authority to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utility.

All reports shall be under oath. When any report is erroneous or defective or appears to the city to be erroneous or defective the city may notify the public utility to amend such report within thirty days, and before or after the termination of such period the city may examine the officers, agents or employees, books, records, accounts, vouchers, plant, equipment and property of such public utility, and correct such items in the report as upon such examination the city may find defective or erroneous. All reports made to the city by any public utility and the contents thereof shall

be open to public inspection unless otherwise ordered by the city.

Any public utility which fails to make and file any report called for by the city within the time specified, or to make specific answer to any question propounded by the city within thirty days from the time it is lawfully required to do so, or within such further time, not to exceed ninety days, as may in its discretion be allowed by the city, shall forfeit one hundred ($100) dollars for each and every day it may be in default.

Any person who knowingly makes any false returns or report to the city, or to any officer or agent of the city, and any person who aids or abets such persons shall upon conviction be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars ($1,000) or both.

§ 83. Any city may by ordinance or resolution apply to the Illinois Commerce Commission for any information or data necessary or useful in the exercise of its powers over public utilities under its jurisdiction; or for the assistance of experts or other agents of the Commission in an investigation of a public utility by the city; or for an investigation by the Commission as to any matters relating to public utilities under the jurisdiction of such city. Upon such application it shall be the duty of the Illinois Commerce Commission to furnish all information or assistance to such city as may be within its power, without interfering with the performance of the duties imposed by law upon the Commission. Requests by cities to the Commission for valuations of public utilities shall, so far as possible, be complied with by the Commission in the order in which they are received.

§ 84. Any public utility dissatisfied with any action of a city under the terms of this Act may apply for a review of the action of the city by the Illinois Commerce Commission. Such application shall set forth the action of the city and the grounds on which such action is contested. Upon such application it shall be the duty of the Commission to review the action of the city; and for the purpose of such review the Commission shall be vested with all the powers, and such public utility shall be subject to all the duties, obligations and liabilities as in the case of public utilities subject to the jurisdiction of the Commission. On such review the Commission shall make such determination as seems to it just and reasonable; and such order of the Commission shall be subject to all of the provisions of this Act the same as if made

in a proceeding over which the Commission had original jurisdiction.

§85. This article shall not be in force in any city until the question of its adoption shall first have been submitted to the legal voters of such city and approved by a majority of those voting at such election. Until this article has been adopted and approved by the voters of such city the Illinois Commerce Commission shall be vested with all the powers and jurisdiction conferred by this Act as to all public utilities within such city, and all public utilities within such city shall be subject to all the duties, obligations, and liabilities as in the case of other puble utilities under the jurisdiction of such Commission.

Upon the adoption of this article by any city, the authority of such city shall supersede the powers of the Illinois Commerce Commission with respect to the matters upon which the city has assumed or resumed authority hereunder.

The question of the adoption of this article may be submitted in the following manner: A petition signed by the legal voters of the city equal in number to at least twenty-five per cent of the legal voters of the city voting at the last preceding election for mayor or president of the village, demanding the submission of the question of the adoption of this article, may be filed with the election officials having authority over election matters for such city, and it shall thereupon be the duty of such election officials to submit the question of the adoption of this article to such legal voters at any municipal election at which a mayor or president of the village or any clerk or city treasurer is elected, to be held not less than 30 days after the filing of such petition:

Where such petition is filed for and in any city which has adopted and is operating under Article XIII of "An Act to provide for the incorporation of cities and villages," approved April 10, 1872, in force July 1, 1872, as amended, it shall be the duty of the election officials to submit the question of the adoption of this article to the legal voters at the next election at which a mayor and commissioners are to be elected, or, if filed within thirty days before, or if filed after such election, then at the next general, municipal or special election in and for the entire city, to be held during the month of April of the odd-numbered year following any such election. If no such general, municipal or special election is to be held in April of any such odd-numbered year, it is the duty of such election officials to call a special election for the submission of such question on a day in such month. How-

ever, such petition shall in all cases be filed at least thirty days prior to the date of such election.

Should this article fail to be adopted at any time at which it is submitted under the requirements of this section, then it may be resubmitted from time to time by petition as above provided, but the question shall not be submitted oftener than once each two years.

§ 86. Any city may surrender the powers herein conferred upon it with respect to public utilities. On such surrender of its power by any city, such city shall cease to exercise the powers so surrendered; and the Illinois Commerce Commission shall be vested with all powers under this Act as to public utilities within such city.

The surrender of the powers herein conferred shall be effected only after the question of such surrender has been submitted to the legal voters of such city and approved by a majority of those voting thereon. The question of the surrender of the powers conferred by this article may be submitted in the following manner: A petition signed by the legal voters of the city equal in number to at least twenty-five per cent of the legal voters of the city voting at the last preceding election for mayor or president of the village, demanding the submission of the question of the surrender of the powers conferred by this article, may be filed with the election officials having authority over election matters, for such city, and it shall thereupon be the duty of such election officials to submit the question of the surrender of the powers conferred by this article, to such legal voters at any municipal election at which a mayor or president of the village or any clerk or city treasurer is elected, to be held not less than thirty days after the filing of such petition. Where such petition is filed for and in any city which has adopted, and is operating under Article XIII of "An Act to provide for the incorporation of cities and villages," approved April 10, 1872, in force July 1, 1872, as amended, it shall be the duty of the election officials to submit the question of the surrender of the powers conferred by this article to the legal voters at the next election at which a mayor and commissioners are to be elected, or, if filed within thirty days before, or if filed after such election, then at the next general, municipal or special election in and for the entire city, to be held during the month of April of the odd-numbered year following any such election. If no such general, municipal or special election is to be held in April of any such odd-numbered year, it is the duty of such election officials to call a special election

for the submission of such question on a day in such month. However, such petition shall in all cases be filed at least thirty days prior to the date of such election.

No action of any city adopting this article, or surrendering the powers conferred thereby, shall be of force and effect until a notice of such adoption or surrender shall have been filed with the Illinois Commerce Commission.

If a city adopts or surrenders the powers conferred by this article while an appeal is pending in the courts questioning the findings, orders, decisions, rules or regulations of the commission (or of the city, as the case may be) the court, in which such appeal is pending, may, in its discretion, permit the joinder or substitution of the city (or of the commission, as the case may be).

Article VII.

Repeal—Saving Clause—Construction.

§87. "An Act to establish a board of railroad and warehouse commissioners, and prescribe their powers and duties," approved April 13, 1871, in force July 1, 1871, together with the amendments thereto; "An Act defining and regulating express companies and carriers by express operating within the State of Illinois, declaring them to be common carriers and placing them under the jurisdiction and control of the Illinois Railroad and Warehouse Commission," approved June 9, 1911, in force July 1, 1911; and "An Act to provide for the regulation of public utilities," approved June 30, 1913, in force January 1, 1914, as amended, are hereby repealed. Nothing in this Act shall be construed to repeal any other Act or part thereof conferring power on said Board of Railroad and Warehouse Commissioners or on the State Public Utilities Commission or the Public Utilities Commission except such as are in direct conflict herewith, but the rights, powers and duties conferred by such other Act or Acts upon the Board of Railroad and Warehouse Commissioners, the State Public Utilities Commission, and the Public Utilities Commission shall be continued in full force and transferred to the Illinois Commerce Commission, it being the intent of this Act to substitute with respect to such other Act or Acts the Illinois Commerce Commission for the Public Utilities Commission.

The Public Utilities Commission shall transfer and deliver to the Illinois Commerce Commission, upon its demand in

writing, all books, papers and records; furniture, equipment and supplies of whatever description in its possession; and the Illinois Commerce Commission shall take possession of all such books, papers and records, furniture, equipment and supplies.

All parts of "An Act in relation to the civil administration of the State government, and to repeal certain Acts therein named," approved March 7, 1917, in force July 1, 1917, as amended in conflict with this Act, are hereby repealed.

§ 88. This Act shall not affect pending actions or proceedings, civil or criminal, in any court, brought by or against the People of the State of Illinois or the Board of Railroad and Warehouse Commissioners, State Public Utilities Commission, or Public Utilities Commission, or by any other person, firm or corporation under the provisions of the Acts establishing or conferring power on the Board of Railroad and Warehouse Commissioners, State Public Utilities Commission or Public Utilities Commission, nor abate any causes of action arising thereunder, but the same may be instituted, prosecuted and defended with the same effect as though this Act had not been passed. Any investigation, hearing or proceeding, instituted or conducted by the Board of Railroad and Warehouse Commissioners, State Public Utilities Commission or Public Utilities Commission, prior to the taking effect of this Act shall be conducted and continued to a final determination by the Illinois Commerce Commission with the same effect as if this Act had not been passed.

All findings, orders, decisions, rules and regulations issued or promulgated by the Board of Railroad and Warehouse Commissioners, State Public Utilities Commission or Public Utilities Commission, under the Acts establishing or conferring power on said board or commissions, shall continue in force; and the Illinois Commerce Commission hereby created shall have all powers with respect to said findings, orders, decisions, rules and regulations as though said findings, orders, decisions, rules and regulations had been made, issued or promulgated by the Illinois Commerce Commission under this Act.

§ 89. If any section, subdivision, sentence, or clause of this Act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

§ 90. Neither this Act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this Union, except

when specifically so stated, and insofar as the same may be permitted under the provisions of the Constitution of the United States and Acts of Congress, and the decisions of the Supreme Court of the United States.

§91. A substantial compliance with the requirements of this Act shall be sufficient to give effect to all the Acts, orders, decisions, rules and regulations of the Commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

AN ACT *to regulate business of storing personal property for hire.*

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* After September 30, 1921, no person, firm or corporation shall engage in the business of storing personal property for hire without a license issued by the public utilities commission or by the State commission exercising the power of supervision over public utilities. The provisions of this Act shall not apply to warehouses licensed under "An Act to regulate cold storage of certain articles of food," in force July 1, 1917, nor to warehouses licensed under "An Act to regulate public warehouses, and the warehousing and inspection of grain, and to give effect to Article thirteen of the Constitution of this State," approved April 25, 1871, in force July 1, 1871, as amended.

§2. Every person, firm or corporation desiring to engage in or continue in the business of storing personal property for hire shall make application for a license upon blanks prepared and furnished by such commission. The applicant shall state in his application under oath:

(a) The name and business address of the applicant;

(b) The location of warehouse or warehouses for which a license is desired;

(c) If the applicant is a corporation the names and addresses of the principal officers and of the directors of the corporation; and

(d) Such other information as the commission may require to be furnished in connection with such application.

§3. The commission shall examine such application and shall cause an examination to be made of the warehouse or warehouses for which a license is sought, and shall issue a license to such applicant if the terms of this law have been complied with. The applicant shall pay a fee of twenty-five

dollars per annum to the commission for such license, and the license shall not continue in effect unless such fee is paid. Each applicant for a license shall file with the commission a bond with security to be approved by the commission, conditioned for the observance of the provisions of this Act and the rules, regulations, orders, and decisions of the commission, and for the payment of any judgment recovered by any person by reason of the damage to or loss of personal property stored with the applicant.

The commission shall adopt reasonable rules classifying persons, firms or corporations licensed under the provisions of this Act, according to the number of warehouses or places to be used for the storage of personal property, the space to be devoted to that purpose and the character of protection afforded by such warehouse; and shall fix the amount of the bond to be filed by the applicant in accordance with its rules, but the bond required shall in no case be less than $5,000 nor more than $100,000.

§ 4. The period for which a license is granted shall run from July 1 to June 30. If application is made after the expiration of the first quarter of any year, the fee to be charged for such license shall be twenty dollars; if after the expiration of the second quarter the fee shall be fifteen dollars; and if after the expiration of the third quarter the fee shall be ten dollars.

§ 5. Nothing in this Act shall be construed to prevent the delivery of property stored previous to the coming into effect of this Act.

§ 6. In case any licenses under this Act shall violate any of the provisions of this law or any of the rules, regulations, orders or decisions relating to such warehouses, adopted by the commission, the commission shall have authority to notify the licensee of such violation, and upon notice and hearing to revoke such license or to take such other steps as may be authorized by law.

§ 7. The commission shall have authority to make all necessary rules and regulations to carry this Act into effect. Nothing in this Act shall be construed as in any way reducing the powers now conferred by law upon such commission with respect to warehouses covered by this Act.

§ 8. Any person, firm or corporation violating any provision of this Act shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding $1,000 or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Approved June 28, 1921.

INDEX.

	Section	Page
Abolishing grade crossings	58	105
division of costs of	58	105
Accident reports to be filed	56	104
investigation of	56	104
not admissible in evidence	56	104
Accounts—in general	Art. II	75
audit of	15	76
additions and betterments	13	76
depreciation	14	76
destruction of	17	77
examination of, by commission	15	75
examination of, by cities under Art. VI	82	125
false entries in	17	77
penalty for	17	77
forms prescribed	13	76
income	13	76
non-public utility company	12	76
operating expense	13	76
production of, compelled	60	108
unauthorized	17	77
unlawful to keep	11	75
uniform system of	11	75
Accountants—salaries	5	69
Act:		
invalidity of one section of	89	130
not to apply to—		
foreign commerce	90	130
interstate commerce	90	130
substantial compliance with	91	131
Actions pending:		
before commission	88	130
in courts	88	130
Additional officers:		
appointment of	3	67
Additional time for:		
compliance with orders	65	112
Additions and betterments account	13	76
Address of utility company:		
to be filed	16	76
Administrative code—parts repealed	87	129
Adoption of home rule:		
mode of	85	127
petition for	85	127
under commission form	85	127
Affirmations:		
power to administer	60	108
Agent:		
liability of company for acts of	76	121
personal responsibility of	77	122
Amendment of orders	67	114
Annual report:		
utilities to file	19	77
of commission	8	70

	Section	Page
Appeal:		
burden of proof upon	68	115
failure to perfect estops	68	115
from—		
city under Art. VI	84	126
circuit to supreme court	69	117
commission to court	68	115
limitation upon	68	115
in mandamus and injunction suits	75	120
no new evidence upon	68	115
perfected in 30 days	68	115
proceedure to perfect	67	114
priority over civil cases	70	117
record—of what composed	65	112
stipulations as to	65	112
when to be filed	68	115
stay order—		
notice of application for	71	117
appeal does not operate as	71	117
not granted in certain cases	71	117
suspending bond	71	117
to be expedited	68	115
upon refusal of approval of indemnity bond or insurance	55c	103
venue on	68	115
Appliances—testing of	54	101
fees for tests of	54	101
Appointment:		
of additional officers	3	67
civil service exemptions	3	67
assistant commissioners	3	67
chairman of commission	1	66
commissioners	1	66
secretary	2	66
Apportionment of expense:		
of joint improvement	50	98
Approaches at grade crossings	58	105
Assignment of franchises	27	84
Assistant commissioners:		
appointment	3	67
bond	4	68
devote entire time	4	67
duties	3	67
no interest in utility company	4	67
qualifications	3	67
salary	5	69
shall accept no gift	4	67
Attorney fees:		
granted in damage cases	73	120
granted in reparation suits	72	119
Audit of accounts	15	76
Authentication of		
process	6	69
proceedings	6	69
records	6	69
Bonds:		
of assistant commissioners	4	67
commissioners	4	67
employees	4	67
secretary	4	67

	Section	Page
public utility company—		
issue of—regulated	20	79
purposes for which authorized	21	79
unlawfully issued—void	23	82
penalty for	24	82
for storage of personal property	3	131
amount of	3	132
approved by commission	3	132
motor vehicle indemnity	55a	102
approval of by commission	55b	103
appeal from disapproval	55c	103
suspending—on appeal	71	117
exceptions	71	117
warehouse for storage of personal property	3	131
Books:		
destruction of	17	77
to be kept in state	16	76
power to compel production of	60	108
Capitalization—in general	Art. III	79
of consolidation	22	81
consolidation contract—prohibited	21	79
franchise—prohibited	21	79
lease—prohibited	21	79
merger	22	81
non-public utility	12	76
Car distribution		
non-discriminatory	52	99
preference to live stock	52	99
preference to perishables	52	99
Certificate:		
of official acts	60	108
of convenience and necessity	55	102
alteration and amendment of	55	102
grants, no monopoly	55	102
power to issue	55	102
when void	55	102
Certified copies of records:		
admissible in evidence	65	112
Chairman of commission:		
appointment	1	66
salary	5	69
Chancery rules:		
to govern appeal	68	115
to supreme court	69	117
City:		
defined	10	72
may complain	64	111
notice—how served upon	64	111
police powers—not restricted	81	123
powers over local utilities (see "Local Utilities")		
Civil Service exemptions	3	67
Claims:		
for repagation	72	119
Clerk's salary	5	69
Collateral attack—forbidden	68	115
Commission:		
branch office	6	69
chairman of	1	66

	Section	Page
duty to enforce certain laws	79	123
employees of—not to divulge information	18	77
findings and conclusions—prima facie true	68	115
office—location of	6	69
office hours	6	69
organizations and powers—in general....Art. I		66
power of—paramount to cities	81	123
power to—		
abolish grade crossings	58	105
adopt rules and regulations	8	70
amend orders	67	114
apportion expense of joint improvements	50	98
approve contracts	27	84
consolidations	27	84
leases	27	84
merger	27	84
motor vehicle insurance	55b	103
purchase and sale	27	84
sale of property	27	84
audit accounts	15	76
authorize—		
assignment of franchise	28, 29	85
destruction of records	17	77
crossings at grade	58	105
compel—		
attendance of witnesses	60	108
production of books and records	60	108
compromise suit for penalty	78	122
confer with other commissions	8	70
correct reports of utilities	19	77
establish—		
forms of express receipts	53	100
interlockers	57	104
joint rates	42	94
rates	36, 41	89, 93
rules governing—		
contracts	53	100
express company	52	99
telegraph company	52	99
telephone company	52	99
safety rules and regulations	57	104
uniform system of accounts	11	75
examine accounts	19	77
agents	19	77
books	19	77
employees	19	77
equipment	19	77
officers	19	77
plant	19	77
property	19	77
vouchers	19	77
warehouses for personal property	3	131
exercise general supervision over public utility companies	8	70
fix rates	36, 41	89, 93
for demurrage	52	99
joint service	42	94
and establish division of same	42	94

	Section	Page
icing	52	99
storage	52	99
switching	52	99
fix rules and regulations	49	98
grant certificate of convenience and necessity	55	102
reparation	72	119
hear appeal from city under Art. VI	84	126
hold hearings	60	108
inspect accounts	63	110
books	63	110
documents	63	110
equipment	63	110
property	63	110
issue subpoena	60	108
Investigate—		
accidents	56	104
applications for securities issues	21	79
books, records, contracts, etc	21	79
damage cases	72	119
interest of directors	21	79
interest rates	43	95
rates	36	89
license—		
warehouses for storage of grain	80	123
personal property	1	131
make valuations	30	86
for cities under Art. VI	83	126
in security issue cases	21	79
order—		
crossings	58	105
acquisition of real estate for	58	105
extensions	50	98
improvements	50	98
joint action	50	98
joint use of facilities	48	97
night lights at crossings	58	105
physical connections between—		
telegraph companies	47	97
telephone companies	47	97
railroads	45	95
proceedings in name of people—		
injunction	75	120
mandamus	75	120
production of evidence	62	109
repairs	57	104
removal of obstructions to view	58	105
separation of grades	58	105
petition—Interstate Commerce Commission	43	95
prosecute to recover penalty	78	122
regulate—		
capitalization	20	79
of non-utility company	12	76
consolidation	22	81
freight weights	52	99
issue of—		
bonds	20	79
mortgages	20	79

	Section	Page
notes	20	79
stocks	20	79
merger	22	81
speed over defective tracks	57	104
require company to—		
deliver maps, records, etc.	9	71
furnish information	9	71
render reports	9, 19	71, 77
revoke license of—		
grain warehouse	80	123
personal property warehouse	6	132
supervise—		
public utility companies	8	70
non-public utility companies	8	70
take depositions	62	109
take summary action	65	112
test service	54	101
appliances	54	101
quorum of	1	66
to act on hearing	67	114
to aid cities under Art. VI	83	126
Commissioner:		
appointment	1	66
bond	4	67
defined	10	72
devote entire time	4	67
must not be interested in utility company	4	67
number of	1	66
salary of	5	69
shall accept no gifts	4	67
term of office	1	66
Common carrier:		
defined	10	72
physical connection	47	97
terminal facilities	44	95
to interchange business	44	95
Company:		
defined	10	72
(see utility company—non-utility company.)		
Complaints:		
by whom made	64	111
consolidation of	64	111
direct damage—not necessary	64	111
separation of	64	111
service of	64	111
Consolidation:		
approval necessary	27	84
capitalization of	22	81
of complaints	64	111
power to regulate	22	81
Constitutional question:		
unconstitutionality of one section not to affect others	89	130
Consumer—may have tests made	54	101
Contempt—when witness guilty of	62	109
Contracts:		
between utilities	27	84
for services	33	87
of consolidation—approval of	27	84

	Section	Page
not to be capitalized	22	81
purchase and sale	27	84
rules governing	53	100
void if not approved	27	84
Conveyances:		
upon condition of services to be rendered	39	91
Copies—certified to:		
admissible in evidence	65	112
Corporation:		
defined	10	72
foreign—not exempt from act	28	85
utility must be incorporated—where	28	85
Costs:		
of witness	62	109
service of subpoena	62	109
Court:		
actions pending	88	130
procedure—		
on appeal—		
to circuit court	68	115
to supreme court	69	117
on application for stay order	68	115
upon suit for reparation	72	119
suits for penalties in	78	122
to order witness to testify	62	109
Crossings—in general	58	105
Damage claims:		
attorney fees in—when recoverable	73	120
commission to investigate	72	119
reports open to public	72	119
direct damage—not necessary to complaint	64	111
exemplary damage—when recoverable	73	120
for violation of order	73	120
Defacing crossing signs	58	105
Defective:		
reports to be corrected	19	77
tracks—speed rules over	57	104
Definitions	10	72
Demurrage rates	52	99
Depositions—how taken	62	109
Depreciation account	14	76
Directors of utility company:		
must disclose interests	21	79
Discrimination—prohibited	38, 39	91
in distribution of cars	52	99
Division:		
of costs of crossings	58	105
of joint rates	42	94
Documentary evidence:		
to be produced	62	109
Emergency rates	35	89
Eminent domain—when authorized	58, 59	105, 107
Employees of commission:		
not to divulge information	18	77
not to be interested in utility companies	4	67
not to accept gifts	4	67
salaries of—how fixed	5	69
Engineers, (see Employees)	5	69

	Section	Page
Equipment—must be adequate	32	87
Error—none in informality	60	108
Erroneous reports—to be corrected	19	77
Estoppel—by failure to appeal	68	115
Evidence:		
accidental reports—not admissible	56	104
certified copy—admissible	6, 65	69, 112
depositions	62	109
documentary—to be produced	62	109
failure to receive—reversible	68	115
new evidence—not taken on appeal	68	115
records of commission—		
to contain transcript of evidence	60	108
when not admissible	63	110
strict rules not binding	60	108
Exemplary damages—when allowed	73	120
Expenses of joint improvements	50	98
Experts, (see employees)	5	69
Express company:		
act repealed	87	108
defined	10	72
receipt form	53	100
restricting liability	53	100
rules governing	52	99
Extensions:		
commission may order	50	98
Extension order—when granted	65	112
Facilities:		
joint use of	48	97
must be adequate	32	87
terminal	44	95
transportation	51	99
False:		
accounts	17	77
records	17	77
statement in application	25	83
penalty for	25	83
Fees:		
attorney—when allowed—		
in damage case	73	120
in reparation	72	119
for issuance of securities	31	86
publications	7	69
service of subpoena	62	109
tests of appliances	54	101
warehouses	3	131
witness	62	109
none charged to public officials	7	69
paid into state treasury	7	69
Files are public records	8	70
Foreign corporation—not exempt	28	85
Form of schedules	34	88
Franchise—in general	Art. III	79
assignment of	27, 29	84, 85
capitalization of—prohibited	21	79
Freight:		
business to be interchanged	44	95

	Section	Page
preference given—		
live stock	52	99
perishables	52	99
weights—regulation of	52	99
Funds:		
application of—from security issue—		
to be accounted for	21	79
to be stated in order	21	79
wrongfully applied—penalty	25	83
Grade crossings—in general	58	105
Grain warehouses—licensed	80	123
Gifts—employees shall not except	4	67
Governor:		
may request report on investigation	8	70
to approve appointments	3	67
to appoint—		
assistant commissioners	3	67
chairman	1	66
commissioners	1	66
secretary	2	66
Hazardous crossings	58	105
night lights at	58	105
Hearings:		
by whom held	60	108
notice of	65	112
how served	64	111
petition for	65	112
place of holding	3	67
procedure	60	108
rules of evidence—not binding	60	108
to be public	60	108
upon complaint	65	112
Highway:		
crossings at grade	58	105
operation of motors upon	55a	102
Home rule, (see "Local Utilities").		
Icing rates	52	99
Identification number	20	79
Illinois incorporation—required	28	85
Immunity of witness	61	108
not extended to corporation	61	108
Impounding of funds	71	117
Improvements may be ordered	50	98
Income account	13	76
Incrimination:		
witness granted immunity	61	108
Information—not to be divulged	18	77
Injunction proceedings:		
instituted by commission	75	120
Inspectors, (see "Employees").		
Inspection of utility property	63	110
Insurance for motor company	55a	102
approval of	55b	103
appeal from commission	55c	103
Intercorporate relations—in general	Art. III	79
Interlockers—power to establish	57	104
Interstate rates	43	95
Investigations—made when requested	8	70
Investigation reports—to be in record	60	108

	Section	Page
Joint action:		
commission may require	50	98
Joint rates:		
commission authorized to establish	42	94
division of—to be fixed	42	94
filed with commission	33	87
published	33	87
Joint use of facilities	48	97
Jurisdiction:		
of commission, (see "Commission")—		
of appeals—when required	68	115
to be retained	68	115
Leases:		
not to be capitalized	22	81
to be approved	27	84
void if not approved	27	84
Legislative investigation	8	70
Liability:		
of company for acts of agents, etc	76	121
restriction of, in express receipt	53	100
License:		
Capitalization of—prohibited	21	79
for—		
warehouse for grain	80	123
revocation of	80	123
warehouse—personal property storage act		131
bond	3	131
fee for	3	131
period for which issued	4	132
revocation of	6	132
rules governing	7	132
Lights at crossings	58	105
Limitation:		
on appeal	68	115
claims for reparation	72	119
rehearing on new facts after 2 years	67	114
Live stock shipments—given preference	52	99
Local utility—in general	Art. VI	123
home rule—		
adoption of by city	85	127
submitted once in 2 years	85	127
cities under—		
to adopt rules of procedure	81	123
examine accounts	82	125
receive reports	82	125
vested with power—		
to be exercised—how	81	123
examine into condition of	81	123
fix rates	81	123
regulate	81	123
commission to make valuation—when	83	126
railroads excepted	81	123
Long and short haul—in general	40	92
railroads	40	92
telephone and telegraph clause	40	92
Mandamus—commission to institute	75	120
Meetings—of commission—where held	6	69

	Section	Page
Merger:		
capitalization of	22	81
commission to approve	27	84
to regulate	22	81
Messages—to be interchanged	44	95
Meter cards—when required	54a	102
Minority stockholders protected	27	84
Mortgage:		
issue of—regulated	20	79
purposes for which authorized	21	79
to be approved	27	84
Motor vehicle company:		
proof of—		
ability to pay damages	55a	102
indemnity bond	55a	102
insurance	55a	102
to be approved by commission	55b	103
approval refused—appeal	55c	102
Municipal control of utilities, (see "Local Utilities").		
Municipally owned utilities—excepted	10	72
Mutual telephone companies—excepted	10	72
Night lights—at crossings	58	105
Non-public utility—when regulated	8	70
accounts of	12	76
capitalization of	12	76
Notes:		
issue regulated	20	79
purpose for which authorized	21	79
short term—authorized	21	79
unlawfully issued—void	23	82
penalty for	24	82
Notice of		
adoption of Art. VI	86	126
appeal—when and where filed	68	115
application for stay order	71	117
change in rates	36	89
hearing—how served	64	111
schedules on file	34	88
surrender of power under Art. VI	86	128
summary action without	65	112
Number—for identification	20	79
Oath:		
of office	4	67
power to administer	60	108
reports to be verified under	19	77
Obstruction to view—removed	58	105
Offense—each day separate	76	121
Office—location	6	69
branch office	6	69
hours	6	69
of utility—to be in state	16	76
Officer of Commission:		
not to divulge information	18	77
salary	5	69
Officials—exempt from fees	7	69
Operating expense account	13	76
Order:		
acceptance of	66	97

	Section	Page
additional time for compliance	65	112
amendment of	67	114
authorizing security issue, to state facts	21	79
of predecessor—continued in force	88	130
service of	66	114
receipt acknowledged	66	114
when effective	65	112
Parties:		
cities may be	64	111
direct damage—not necessary	64	111
to complaint	64	111
right to inspect record	63	110
Passengers to be interchanged	44	95
Penalty, (general penal clause)	76	121
action for—how brought	78	122
in cities under Art. VI	81	123
agent personally responsible for	77	122
cumulative	74	120
each day a separate offense	76	121
for—		
defacing crossing signs	58	105
divulging information	18	77
failure to report	19	77
to cities under Art. VI	82	125
false report	19	77
issue of securities wrongfully	24, 25	82, 83
keeping—		
false accounts and records	17	77
unauthorized accounts and records	17	77
violation of act—		
by company	76	121
by individual or agent	77	122
violation of warehouse act	8	132
witness' failure to appear	62	109
individual responsible for	77	122
no bar to criminal action	74	120
not released	74	120
Pending actions:		
before the commission	88	130
in the courts	88	130
Perishable shipments—given preference	52	99
Perjury	61	108
Permit—capitalization of	21	79
Person—defined	10	72
Personal property—storage of		131
Petition for hearing	65	112
Physical connection between:		
railroads	45	95
street railroads	46	97
telegraph lines	47	97
telephone lines	47	97
Police powers of cities—not restricted	81	123
Power to administer oaths	60	108
Practice, (see "Procedure").		
Predecessor's orders—continued in force	88	130
Preservation of books, records and accounts	17	77
Priority of appeal cases	70	117
Privilege of witness—not granted	61	108

	Section	Page
Procedure—in general ..... Art. V		87
appeal	67, 68	114, 115
chancery rules to govern	68	115
from action of city under Art. VI	84	126
application for stay order	71	117
complaint cases	64, 65	111, 112
consolidation cases	27	84
merger cases	27	84
notice of hearing	64	111
petition for rehearing	67	114
pending actions	88	130
purchase and sale cases	27	84
security issue cases	65	112
substantial compliance only, necessary	91	131
to recover reparations	72	119
Proof of records—certified copy	6	69
Publications—fees for	7	69
Public hearings	60	108
Public utility—defined	10	72
act repealed	87	129
commission—equipment, property and records transferred	87	129
Purchase and sale contract:		
to be approved	27	84
void if not approved	27	84
Quorum—of commission	1	66
Railroad—defined	10	72
additional facilities	51	99
crossings	58	105
defective tracks	57	104
freight transfers	42	94
joint rates	42	94
physical connection	46	97
rates:		
demurrage	52	99
division of	42	94
icing	52	99
long and short haul	40	92
storage	52	99
shipments routed	42	94
speed rules	57	104
spur tracks	45	95
switching rates	52	99
terminal facilities	44	95
time tables—changes	51	99
to interchange business	44	95
Railroad and Warehouse Commission Act repealed	87	129
Rates—in general ..... Art. IV		87
defined	10	72
discrimination—prohibited	37, 38, 39	90, 91
emergency	35	89
filed with commission	35	89
joint rates—in general	33	87
commission to fix	42	94
must be reasonable	32	87
notice of changes in	36	89
power to fix	36	89

	Section	Page
railroad—		
for demurrage	52	99
highway materials	39	91
icing	52	99
interstate traffic—investigated	43	95
storage	52	99
switching	52	99
schedules—		
filed with commission	33	87
period of suspension	36	89
of resuspension	36	89
Real estate to be acquired:		
for grade crossings	58	105
Record:		
certified copy of admissible	65	112
destruction of	17	77
evidence taken—to be part of	60	108
false entry in	17	77
not admissible in other proceedings	63	110
of public utilities commission—transferred	87	129
of utility company—kept in state	16	76
on appeal—		
to consist of	65	112
stipulations as to	65	112
when and where filed	68	115
open to inspection of party	63	110
proof of—in court	6	69
reports of investigation—part of	60	108
stenographer to take advantage for	65	112
to be kept—in writing	63	110
to be public	8	70
to be preserved—complete	65	112
Reduced rates for highway materials	39	91
Regulations:		
commission's power to fix	49	98
of freight weights	52	99
safety—power to establish	57	104
Rehearing—procedure for	67	114
Remedy—cumulative	72	119
Repairs—commission's power to order	57	104
Reparation	72	119
limitation upon claim for	72	119
Repeal of certain acts	87	129
Reports:		
accident	56	104
annual—		
of commission	8	70
of utility company	19	77
erroneous or defective—corrected	19	77
filed with cities under Art. VI	82	125
of investigations—to be in record	60	108
Restricting liability in express receipt	53	100
Resuspension of rates	36	89
Reversal for failure to hear evidence	68	115
Routing of shipments	42	94
Rules:		
cities under Art. VI—		
to adopt—governing local utilities	81	123

	Section	Page
commission to adopt	8	70
governing—		
contracts for service	53	100
express companies	52	99
telegraph companies	52	99
telephone companies	52	99
utility companies—in general	49	98
warehouses for personalty	7	132
classification of	3	131
of procedure	8	70
of evidence—not binding	60	108
of utility companies—		
must be filed	33	87
must be reasonable	32	87
on appeal	68	115
power to amend	8	70
safety—power to establish	57	104
speed over defective track	57	104
Safety:		
devices	57	104
rules and regulations established	57	104
Salaries	5	69
Sale of property of utility	27	84
Saving clause, (certain acts not repealed)	87	129
Schedules:		
filed with commission	33	87
changes in rates indicated	36	89
form prescribed	34	88
must be produced upon demand	34	88
notice of—posted	34	88
published—how	34	88
Seal—judicial notice of	6	69
Secretary of commission:		
appointment	2	66
bond	4	67
duties	2	66
must not accept gifts	4	67
must not be interested in utility company	4	67
salary	5	69
term of office	2	66
to devote entire time	4	67
Securities—in general	Art. III	79
fees for authorization of	31	86
funds—derived from—		
to be accounted for	21	79
to be applied as ordered	21	79
commission to regulate	20	79
not guaranteed	26	83
purposes for which authorized	21	79
unlawfully issued	25	83
void	23	82
penalty	24	82
Separation:		
of complaints	64	111
of grades at crossings	58	105
division of costs	58	105

	Section	Page
Service—in general .....Art. IV		87
charges—proportionate	40	92
contracts filed	33	87
inspection of	54	101
must be adequate	32	87
of—		
complaint	64	111
notice—how given	64	111
on city	64	111
orders	66	114
subpoena	62	109
standards of—fixed	54	101
testing of	54	101
units of service—fixed	54	101
Shipments—routing of	42	94
Short term notes	21	79
Signs at crossings	58	105
defacing of	58	105
penalty for	58	105
night lights—at	58	105
Stay order—procedure, etc.	71	117
Standard units of service	54	101
Stenographer—to take proceedings	65	112
Stipulation as to record on appeal	65	112
Stocks, (see "Securities").		
Storage rates—railroad	52	99
Street railroads—defined	10	72
additional facilities	51	99
physical connection between	46	97
Subpoena:		
authority to issue	60	108
duces tecum	60	108
costs of	62	109
service of	62	109
fees for	62	109
Summary action without notice	65	112
Suspending bond—when required	71	117
Suspension of rates	36	89
Switching rates	52	99
Signs at crossings	58	105
Stockholders—minority to be protected	27	84
Telegraph company—rules governing	52	99
to interchange messages	44, 41	95
physical connection between	47	97
Telephone company—rules governing	52	99
to interchange messages	44	95
physical connection between	47	97
Terminal facilities	44	95
Tests of service	54	101
fees for	54	101
Time table—railroad to file	51	99
Transportation:		
additional facilities—when	51	99
district—excepted from definition	10	72
of property—defined	10	72
of property—defined	12	76
railroad—exchanged for advertising	39	91

	Section	Page
Traveling expenses—allowed	5	69
Unauthorized accounts	17	77
records	17	77
Unconstitutionality of one section: not to affect others of act	89	130
Uniform rate to be charged	37	90
system of accounts	11	75
unlawful to keep others	11	75
Unit of service—fixed	54	101
Unlawfully issued securities:		
void	23	82
penalty	24	82
Utility company:		
liable for acts of agent	76	121
may complain to commission	64	111
must be Illinois corporation	28	85
disclose interest of directors	21	79
fill blanks submitted	9	71
furnish information requested	9	71
verify reports under oath	9	71
office to be in state	16	76
to deliver records, etc., upon demand	9	71
obey order of commission	9	71
Valuations—in general	Art. III	79
in security issue cases	21	79
of local utilities under Art. VI	83	126
power to make	30	86
Vacancy—not to affect commission	1	66
View—obstructions to, remove	58	105
Venue of:		
action of commission	75	100
appeals	68	115
Void acts	27	84
Warehouse—defined	10	72
for storage of grain—license	80	123
revocation	80	123
for storage of personal property		131
application for license	2	131
bond	3	131
classification of	3	131
examination of	3	131
jurisdiction of	1	131
Weights—freight—regulated	52	99
Wharfinger—defined	10	72
Witness:		
allowed no privilege	61	108
contempt—when guilty of	62	109
compelled to testify	63	110
examination under oath	63	110
failure to appear	62	109
fees	62	109
how subpoenaed	62	109
costs of service	62	109
immunity from prosecution	61	108
perjury	61	108
power to issue	60	108
Wrongful application of funds	25	83
penalty	25	83

EXHIBIT "B."

STATE OF ILLINOIS,

ILLINOIS COMMERCE COMMISSION.

Illinois Commerce Commission, on its own motion, *vs.* Chicago Telephone Company, (now Illinois Bell Telephone Company). Citation to show cause why the rates for telephone service in the City of Chicago and such adjacent territory as constitutes the Chicago exchange, should not be reduced.	No. 11894.

PETITION FOR REHEARING BY THE CITY OF CHICAGO.

Now comes the City of Chicago, by its attorneys, Francis X. Busch and Stephen A. Foster, and prays that a rehearing be granted in the above entitled matter for the reason that the Commission erred in the entry of its order of August 16, 1923, in the following, among other, particulars:

1. In finding that the original cost as of December 31, 1922, of the property used and useful in the rendering of telephone service in the City of Chicago and exclusive of working capital, materials and supplies, work in progress and going value, but including overhead, is $90,687,816.—It clearly appearing that the amount so found was excessive and against the manifest weight of the evidence in the record.

2. In finding that the reproduction cost new of such property as of December 31, 1922, is $128,769,000.—It clearly appearing that the amount so found was excessive and against the manifest weight of the evidence in the record.

3. In finding that the going value of the Chicago property of the Illinois Bell Telephone Company is $4,196,872.—It clearly appearing that the amount so found was excessive and against the manifest weight of the evidence in the record.

4. In finding that the fair rate-making base for the Chicago property of the Illinois Bell Telephone Company, in-

cluding physical property, overheads, working capital, going value and work in progress is $96,000,000, exclusive of the $26,000,000 of money taken by the company for depreciation reserve and put in plant and equipment,—It clearly appearing that the amount so found was excessive, and against the manifest weight of the evidence in the record.

5. In finding that a fair allowance for operating expenses for the aforesaid property during the ensuing year, including traffic expense, commercial expense, general and miscellaneous expense and taxes, but exclusive of maintenance and retirement expense, is $22,369,850,—It clearly appearing that the amount so found was excessive, and against the manifest weight of the evidence in the record.

6. In finding that a fair allowance to take care of maintenance and retirement charges for said property in use as of December 31, 1922, is $7,869,400, and that this sum plus 8¾ per cent of all additions and betterments, will be sufficient and adequate to permit the Illinois Bell Telephone Company to properly maintain its Chicago property,—It clearly appearing that the amount so found was excessive, and against the manifest weight of the evidence in the record.

7. In finding that the amount necessary to provide a sufficient cash working capital and permit of carrying sufficient materials and supplies for the efficient conduct of telephone business in the City of Chicago, is $3,000,000,—It clearly appearing that the amount so found was excessive, and against the manifest weight of the evidence in the record.

8. In failing to include in the amount of the depreciation reserve (to be deducted from the valuation of the property in arriving at the fair rate-making base) such amounts as are shown by the evidence to have been wrongfully withdrawn by said Illinois Bell Telephone Company from its depreciation reserve or to have been credited to surplus when they should have been credited to such reserve.

9. In failing to deduct from the appraised value for the purpose of arriving at the fair rate-making base such proportion of the value of the entire plant as is represented by the amounts contributed by the subscribers of the company for taking care of depreciation of the company's property, which amounts have been used by the company for extensions and additions. Such extensions and additions should be valued on the same basis as that portion of the plant acquired by funds furnished by the stockholders of the company.

10. In failing to find that the cost to the American Telephone & Telegraph Company of New York (which owns sub-

stantially all of the stock of and dominates and controls all the intercorporate relations with said Illinois Bell Telephone Company) of performing the alleged services claimed to be rendered by the American Telephone & Telegraph Company to the Illinois Bell Telephone Company as part consideration for the so-called 4½ per cent payments, must be taken into consideration in determining the propriety of such payments, and that the burden of showing such cost rested in this proceeding upon the Illinois Bell Telephone Company.

11. In failing to find that on the evidence in the record the amount allowed to the company for the item of "Licensee Revenue Dr."—the so-called 4½ per cent payment to the American Telephone & Telegraph Company—should not be further reduced.

12. In allowing and finding to be just and reasonable, rates for telephone service in the City of Chicago which, it is estimated by the Commission, will return sufficient revenue during the ensuing year to permit the Illinois Bell Telephone Company to earn a revenue sufficient to meet the findings made in the above mentioned order as to operating expenses, maintenance and replacement reserves and to pay a return of 7½ per cent upon the rate base as in said order found, such return of 7½ per cent being excessive and unreasonable.

13. In denying the motion made by the City of Chicago in this proceeding for the entry of an order of the form of City's Exhibit 89, copy of which is hereto attached, and in failing to make, or permit said City of Chicago to make, any further investigation, before entering any order fixing rates, of the several matters in said Exhibit 89 enumerated.

14. In failing to find that it appears from the evidence in the record that the division now in force between the Illinois Bell Telephone Company and the American Telephone & Telegraph Company—which last named company owns substantially all of the stock of said Illinois Bell Telephone Company and dominates and controls all of the inter-corporate relations between said companies—of the tolls received for the transmission of long distance telephone messages from and to points in the City of Chicago jointly over the lines of said companies, is unfair to said Illinois Bell Telephone Company, and in failing to find that a larger portion of the joint revenue so derived should be credited to said Illinois Bell Telephone Company.

15. In excluding from the record City of Chicago Exhibits Nos. 57 to 62, offered in evidence for the purpose of showing the excessive profits derived by the Western Elec-

tric Company (owned almost exclusively and dominated and controlled by the American Telephone & Telegraph Company) from its sales to the subsidiary companies of the Bell System, including said Illinois Bell Telephone Company, and in failing to find on the present record that such excessive profits should be taken into consideration in determining the cost to the Illinois Bell Telephone Company (also owned, dominated and controlled by said American Telephone & Telegraph Company) of rendering telephone service in the City of Chicago.

16. In failing to make further reductions of rates for different classes of telephone service now in force in the City of Chicago.

WHEREFORE your petitioner prays that a rehearing may be granted and the order heretofore entered by the Commission may be modified and the rates of telephone service in effect in the City of Chicago be further reduced.

Respectfully submitted,

CITY OF CHICAGO,
By FRANCIS X. BUSCH,
Corporation Counsel.
STEPHEN A. FOSTER,
Special Counsel.

Dated CHICAGO, September 12, 1923.

(Exhibit "89.")

STATE OF ILLINOIS,
ILLINOIS COMMERCE COMMISSION.

Illinois Commerce Commission, on its own motion, *vs.* Chicago Telephone Company, Now Illinois Bell Telephone Company, Relative to Rates.	No. 11894.

ORDER.

It appearing to the Commission that certain evidence relevant to the determination of the issues presented in this proceeding is now in the possession or control of the American Telephone & Telegraph Company, a corporation organized and existing under and by virtue of the laws of the State

of New York and subject to the jurisdiction of this Commission;

IT IS HEREBY ORDERED that said American Telephone & Telegraph Company produce and file with this Commission on or before ..... day of ....., 1923, the following:

1. Three copies each of the reports prepared by the Comptroller of the Western Electric Company, a subsidiary corporation of said American Telephone & Telegraph Company, and constituting the manufacturing department of said American Telephone & Telegraph Company, relating to the business of said Western Electric Company and its predecessor or predecessors down to and including the year ending December 31, 1922, which reports are known as the Comptroller's reports and are substantially in the form and of the character of and show facts of the same character as are shown in the reports of the Comptroller of the Western Electric Company, which have been offered in evidence in this proceeding and marked for identification as City of Chicago Exhibits Nos. 57 to 62, inclusive.

2. Three copies of the "Careful Estimates of the Cost" of the services rendered to the subsidiary companies by the said American Telephone & Telegraph Company during the year ending December 31, 1920, to which estimates reference is made in the testimony of witness F. L. Rhodes at pages 331 to 332 of the record herein, together with similar estimates, if any, for the years ending December 31, 1921, and December 31, 1922, and all records, memoranda, books of account and underlying data used or relied upon in the preparation of said estimates.

3. Three copies of statements for the year ending December 31, 1922, showing the gross revenues, costs and profits of the said American Telephone & Telegraph Company in connection with the so-called "leased wire" business conducted over the long lines plant terminating in the City of Chicago and connecting with points outside of said city reached by the lines of the said American Telephone & Telegraph Company, and showing what portion of said revenues was credited or paid to the Illinois Bell Telephone Company. The revenues from the "leased wire" business herein referred to include all revenues derived by the said American Telephone & Telegraph Company from the use of the long distance lines running into Chicago leased to corporations, firms and individuals doing business in the City of Chicago and else-

where; together with all records, books of account, memoranda and original data upon which said statements are based.

4. Three copies of statements for the year ending December 31, 1922, showing the gross revenues, costs and profits of the said American Telephone & Telegraph Company in connection with the transmission of messages over the long lines plant terminating in the City of Chicago and connecting with points outside of said city reached by the lines of said American Telephone & Telegraph Company and showing what portion of said revenues was credited or paid to the Illinois Bell Telephone Company, together with all records, books of account, memoranda and original data upon which such statements are based.

By the Commission,

.....

Secretary.

Dated, CHICAGO, ILLINOIS, this ..... day of ....., 1923.

(Title omitted)

ANSWER

Filed Oct. 6, 1923.

The joint and several answer of Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, William Burkhardt, Alex J. Johnson, and William J. Smith, the persons constitutiing the Illinois Commerce Commission of the State of Illinois, and Edward J. Brundage, Attorney General of the State of Illinois, defendants, to the bill of complaint of the plaintiff, Illinois Bell Telephone Company.

Said defendants answer said bill of complaint as follows:

FIRST. Said defendants admit the allegations contained in the first paragraph of said bill of complaint.

SECOND. Said defendants admit that the defendants first named in the Plaintiff's Bill of Complaint are the persons constituting the Illinois Commerce Commission of the State of Illinois, with the exception of James L. Sullivan, who resigned, and in whose place William Burkhardt, a citizen and resident of Cook County, Illinois, was appointed by the Governor of the State on September 19, 1923; that said Illi-

nois Commerce Commission is an administrative body, created by a certain statute entitled "An Act concerning Public Utilities," approved June 29, 1921, in force July 1, 1921; that Edward J. Brundage, the defendant last named in said bill of complaint is the Attorney General of the State of Illinois; and that said members of the Illinois Commerce Commission are citizens and residents of the counties alleged in said bill of complaint.

THIRD. These defendants admit that the plaintiff is a common carrier as defined in the Act of Congress known as the Interstate Commerce Act and is subject to the jurisdiction of the Interstate Commerce Commission to the extent defined in said Act, to which reference is hereby expressly made.

FOURTH. Defendants further answering deny that the rates and charges prescribed in the order of the Illinois Commerce Commission dated August 16, 1923, to become effective October 1, 1923, for prescribing certain rates and charges to be charged by the plaintiff on and after October 1, 1923, to its subscribers and patrons in the City of Chicago, are confiscatory, of plaintiff's property used or useful in the furnishing of said telephone service, and deny that said order, if enforced, will deprive the plaintiff of its property without due process of law, or will deny plaintiff the equal protection of the laws in violation of the plaintiff's rights under the Fourteenth Amendment to the Constitution of the United States, and deny that said order is null and void.

And these defendants further answering the allegations contained in the fourth paragraph of the Plaintiff's Bill of Complaint, allege on information and belief that the rates prescribed in said order of said Illinois Commerce Commission are just and reasonable rates and were prescribed by said Commission in the exercise of its full power and authority under the Statute of the State of Illinois, creating said Commission and these defendants allege that said rates and charges have not yet been put into effect or given any practical test by said plaintiff and that as is hereinafter more particularly set forth, it cannot be predicted with any degree of certainty whether such rates and charges, if put into effect, will, in fact, reduce the revenues of said plaintiff and that it is entirely possible that if the reduced rates prescribed by the Illinois Commerce Commission in said order are permitted to become effective and given a fair test, there will be an increase in the use of telephone service in the City of Chicago and an increase in plaintiff's revenue.

These defendants therefore say that this Honorable court should not take jurisdiction of this cause or grant any relief therein until a practical test of said prescribed rates shall have disclosed whether said prescribed rates will or will not result in depriving the plaintiff of a fair rate of return upon the fair value of its property.

FIFTH. These defendants further answering admit that a certain citation was issued by the Illinois Commerce Commission against the plaintiff and that the plaintiff filed an answer thereto and that hearings were had before said Commission on said citation and answer and that evidence was introduced by the plaintiff and by the Illinois Commerce Commission and by representatives of the City of Chicago, and that after said hearings were concluded said Commission entered an order on July 16, 1923, and that Exhibit "C" attached to the bill of complaint appears to be a true copy of said order, except that said Exhibit "C" is entitled by said plaintiff "Final Order," whereas the order entered by said Commission was not so entitled. These defendants admit that the plaintiff filed a petition for rehearing in said proceeding before said Illinois Commerce Commission and that Exhibit "D" attached to said bill of complaint appears to be a true copy of said petition and further admit that said Commission denied said petition for rehearing and notified the plaintiff thereof on September 8, 1923.

SIXTH. These defendants deny on information and belief that the cost to the plaintiff of this property in the City of Chicago, State of Illinois, now being used and useful in furnishing intrastate telephone service to subscribers and patrons in said city and exclusively devoted to the rendition of said service was, as it existed on June 30, 1923, not less that the sum of $103,500,000 exclusive of working capital, materials and supplies, work in progress, and going value, and these defendants further deny on information and belief that the reproduction cost new of such property as it existed on June 30, 1923, is at least the sum of $135,500,000, exclusive of working capital, materials and supplies, work in progress and going value, and further deny that the present fair value of said property is at least the sum of $144,500,000, including working capital, material and supplies, and going value.

These defendants further answering say that the plant and equipment accounts of the plaintiff as carried on its books are greatly inflated and do not correctly represent the cost to plaintiff of its property or present value of said property and that said accounts contain and include sums greatly in

excess of the cost or value of said property, that the estimated reproduction cost, new, of said property set forth in said bill of complaint is based on theoretical studies of the cost of building a new telephone plant similar to that of the plaintiff in the City of Chicago under assumed conditions which are altogether improbable and at estimated costs which are excessive and that such estimates do not constitute any criterion for the fixing of the fair value of the plaintiff's property; that all of the evidence introduced by the plaintiff at the hearings before the Illinois Commerce Commission was given due consideration by said Commission and that its conclusions as to the fair value of the plaintiff's property after the hearing of evidence and argument cannot be set aside on the strength of mere theoretical estimates or guesses as to what would be the cost of reproduction new of the plaintiff's property; and the said defendants further say that the amount set forth in said Plaintff's Bill as to reproduction cost new of its property and its present fair value are excessive and unreliable and form no criterion for the determination of the proper rate base because plaintiff did not deduct or make any allowance for the large reserve for depreciation which plaintiff has accumulated from the amounts paid by telephone users in the past for the purpose of taking care of depreciation, which reserve now amounts, for that portion of the plaintiff's plant located in the City of Chicago, to some $27,000,000, and these defendants say that that portion of the plaintiff's plant which represents the investment therein of the amount of the plaintiff's reserve for depreciation should be deducted from any estimate of reproduction cost new of plaintiff's plant in arriving at a proper rate base and that no such deduction was made as these defendants are informed and believe in any of the calculations made by plaintiff's or its witnesses or affiant or in arriving at figures set forth in the Plaintiff's Bill of Complaint.

SEVENTH. These defendants admit that the present telephone rates and charges in the City of Chicago were fixed and determined as fair and reasonable rates and charges by an order of the Public Utilities Commission, predecessor of the Illinois Commerce Commission, dated December 20, 1920; and that said rates and charges became effective January 21, 1921, and have remained continuously in effect thereafter and these defendants say that said rates and charges were accepted by the plaintiff as satisfactory and said rates and charges were in no way attacked by plaintiff in any proceeding before either of said Illinois Commissions or in courts;

that there are some 31 different classes of telephone service rendered by the plaintiff to telephone subscribers in the City of Chicago, and that of the rates and charges so fixed for the different classes of service and so accepted by said complainant, the rates for only four different classes of service are changed by the order of the Commission so complained of; that the order here complained of, if allowed to go into effect, would merely do away with what is an unjust discrimination in rates and charges now in force and give those telephone subscribers who use the so-called nickel coin box service rates more nearly comparable to those enjoyed by telephone subscribers who use other classes of service. And these defendants further answering deny on information and belief that the revenues produced by the present rates and charges now in effect after the paying of proper operating expense and taxes of the plaintiff would leave available for return on all the property of the plaintiff in the City of Chicago, resulting from the operations of the plaintiff in said city, including intrastate operations, no more than the amount set forth in paragraph seventh of said bill of complaint; and deny on information and belief that the revenues produced by said rates, after the payment of operating expenses and taxes left available for the return of the property of the plaintiff in the City of Chicago, excluding its interstate property, resulting from the intrastate operations of the plaintiff for the first seven months of the year 1923 computed on the annual basis amount to only $5,807,450. And these defendants on information and belief, deny that the plaintiff's telephone business in said City of Chicago has been conducted efficiently and economically during all the times herein referred to.

These defendants further answering say that said plaintiff, in its contract relations with the American Telephone & Telegraph Company paid to said American Telephone and Telegraph Company approximately $2.60 per station, contrary to and in violation of the order of the Public Utilities Commission, entered December 20, 1920, which order provided that a payment of only $2.10 per station in the City of Chicago per annum should be allowed as an item of operating expense.

EIGHTH. These defendants deny on information and belief that the present rates and charges of the plaintiff are not in excess of fair and reasonable rates and charges, and on the contrary allege that the present rates for the four classes of service above referred to and covered by the order of the

Commission here complained of were in excess of fair and reasonable rates and charges and were unjust, unreasonable, and discriminatory; and these defendants further deny on information and belief that the fair annual return which the plaintiff is entitled to earn under rates imposed upon it by public authority is an amount equal to not less than eight per cent of the fair value at the time of its use of its property used or useful in the rendition of its service. And these defendants further answering say that said rate of eight per cent is excessive and that the cost to the plaintiff of borrowing money, as demonstrated by the recent sale of fifty million dollar issue of its bonds does not exceed, including amortization and discount, five and six tenths per cent.

Sixth. These defendants deny that the rates and charges prescribed by the order of the Illinois Commerce Commission will not afford the plaintiff a fair return upon the fair value at the time of use of its property used or useful in and exclusively devoted to intrastate telephone service in the City of Chicago, and deny that such rates and charges are confiscatory and deny that they are not fair and reasonable rates. These defendants further deny on information and belief that said rates and charges, if permitted to become effective, will reduce the amount available for the return of the plaintiff by not less than the sum of $1,700,000 per annum, and in this connection these defendants say that it is impossible to predict in advance that for any length of time, if at all, the revenues of plaintiff will be reduced if said order of the Commission is allowed to become effective; that it is to be expected that if the rates for the four classes of service covered by said order, are permitted to go into effect, the telephone subscribers enjoying said classes of service will increase their use thereof, and that this increased use will produce for the plaintiff a revenue nearly, if not equal to that at present enjoyed by it from those classes of telephone users. And these defendants further answering deny that said rates and charges, if enforced, will deprive plaintiff of the equal protection of the laws in violation of its rights under the Fourteenth Amendment of the Constitution of the United States.

These defendants further answering deny that if said order complained of in said bill of complaint is enforced, the revenue produced by said rates after the payment of proper operating expenses and taxes resulting from the operation of the property of the plaintiff exclusively devoted to intrastate telephone service in the City of Chicago, will leave available for return less than three per cent per annum of the present

fair value of said property and these defendants further deny that if said order here complained of is enforeced, the revenue of the company after the payment of proper operating expenses and taxes resulting from the operation of the plaintiff exclusively devoted to exchange service in the City of Chicago, will leave available for return less than three per cent per annum upon the present fair value of said property.

TENTH. These defendants deny that the finding of said Illinois Commerce Commission in its order of August 16, 1923, that certain of the present rates of the plaintiff are unjust and unreasonable, was void and denies that the special rates therein prescribed are contrary to law and void. These defendants further deny on information and belief that in its findings in such order said Commission did not fix and determine sufficiently high valuations of the property of the plaintiff, and deny on information and belief that in arriving at the values fixed of $96,000,000, the Commission omitted any portion of the said property of the plaintiff which should have been included therein, and deny that the Commission arbitrarily disregarded and disallowed any expenses of the plaintiff reasonably incurred in operating its property, and deny that it disregarded certain orders and rules of the Interstate Commerce Commission and deny that the order of said Illinois Commerce Commission is null and void.

ELEVENTH. These defendants admit that unless the enforcement of the order of the Commission of August 16, 1923, is enjoined by this or some other court, an attempt will be made to compel the plaintiff to comply with said order, but these defendants deny that the plaintiff will by reason of anything alleged in said bill of complaint, or in paragraph eleventh thereof, be forced to submit to the confiscation of its property without due process of law or in violation of its rights under the Constitution of the United States, or will be subjected to great and irreparable loss and damage.

And these defendants further deny on information and belief, the other allegations in said paragraph eleventh contained, and further answering allege that the plaintiff has a speedy and adequate remedy in the courts in the State of Illinois and in the Circuit Court of Cook County, where an appeal is now pending from the order of said Commission and there are presented for adjudication all of the issues that the plaintiff seeks to bring before this court in its bill of complaint.

TWELFTH. Further answering these defendants allege that this court is without jurisdiction to grant the relief asked for in plaintiff's application for an injunction or any of the relief asked in the Plaintiff's Bill of Complaint, and these defendants pray the same benefit of each of the facts and things above set forth, as if the defendants had moved to dismiss the bill of complaint in these regards, and these defendants pray that said application for an injunction be dismissed and that all relief prayed for in the bill of complaint be denied, and said bill dismissed.

FRANK L. SMITH, CICERO J. LINDLY, HAL W. TROVILLION, P. H. MOYNIHAN, WILLIAM BURKHARDT, ALEX J. JOHNSON, and WILLIAM J. SMITH, Members of Illinois Commerce Commission, and EDWARD J. BRUNDAGE, Attorney General of the State of Illinois, by EDWARD J. BRUNDAGE, Attorney General of the State of Illinois and Solicitor for Defendants.

(File endorsement omitted.)

MOTION FOR INTERLOCUTORY INJUNCTION—FILED OCT. 6, 1923.

Now comes Illinois Bell Telephone Company, plaintiff in the above entitled cause, and moves the Court that an Interlocutory Injunction be entered herein, as prayed in the Bill of Complaint herein filed.

ILLINOIS BELL TELEPHONE COMPANY,
By CHARLES S. CUTTING,
P. B. WARREN,
WILLIAM D. BANGS,
Its Solicitors.

INTERLOCUTORY DECREE
Filed Dec. 21, 1923.

This cause came on to be further heard before the Honorable Evan A. Evans, George T. Page, Circuit Judges of this district, and Honorable James H. Wilkerson, District Judge of this district, constituting the special statutory court under the provisions of Section 266 of the Judicial Code, upon the motion of the plaintiff for a preliminary injunction, as prayed for in the bill of complaint herein, and said motion having been argued by counsel for all of the parties;

Now, after considering the pleadings in the cause and the affidavits submitted on behalf of the plaintiff and the affidavits submitted on behalf of the defendants, and said affidavits being conflicting, and the court being of the opinion, from all the facts before the court that a preliminary injunction should issue because the rates are confiscatory, and that the whole matter should go to a final hearing upon the merits upon evidence to be adduced before the court and not merely upon affidavits; that it is therefore best to have the matter disposed of at the final hearing of the cause upon the merits, and the court being prepared to set the case down for immediate trial and it appearing that final disposition of the suit on its merits made within a few weeks, and that, pending such final hearing, a preliminary injunction should be granted as prayed for by the plaintiff in the bill of complaint herein, is accordingly

Ordered and decreed that the defendants, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson, and William J. Smith, the persons constituting the Illinois Commerce Commission of the

State of Illinois, Edward J. Brundage, Attorney General of the State of Illinois, and/or their successors in office, and City of Chicago, a municipal corporation, be and they are hereby severally enjoined and restrained, pending the trial and determination of this cause, and until the further order of the Court, from attempting to compel the plaintiff, its officers, agents or employees, to observe, or put in force on October 1, 1923, or to observe and keep in force thereafter, the rates for telephone service prescribed by the order of the Illinois Commerce Commission of August 16, 1923, set forth in said bill, and that the defendants and/or their successors in office be, and they are hereby enjoined and restrained, pending the trial and determination of this cause, and until the further order of the Court, from taking any steps or proceedings against the plaintiff, its officers, agents or employees, to enforce any penalties or any other remedy against the plaintiff for disregarding the rates prescribed by said order.

This order shall not take effect until the plaintiff shall enter into its bond or undertaking in the sum of one million dollars ($1,000,000), conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained by a temporary restraining order heretofore, on September 27, 1923, entered in this cause by this court or by this interlocutory injunction, and further conditioned so that in the event that this interlocutory injunction shall be hereafter dissolved, the plaintiff shall refund to its several subscribers, either in cash or by credit upon subsequent bills, any sums paid by them in excess of the sums chargeable to them, pursuant to the provisions of said order of the Illinois Commerce Commission.

To the entry of which order the defendants by their solicitors object and except.

EVAN A. EVANS,
Circuit Judge.

GEO. T. PAGE,
Circuit Judge.

JAMES H. WILKERSON,
District Judge.

Dated December 21, 1923.

ORDER SUBSTITUTING PARTY DEFENDANTS.

It appearing to the court that on August 16, 1923, the date of the entry of the order of the Illinois Commerce Commission heretofore enjoined in this cause, the Illinois Commerce Commission of the State of Illinois was composed of the following persons: Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson and William J. Smith, all of whom are named as parties defendant in the bill of complaint herein; and

It further appearing to the court that on September 19, 1923, said James F. Sullivan resigned his membership on said Illinois Commerce Commission; and upon that day was succeeded by William Burkhardt as a member of the said commission; and

It further appearing to the court that on November 22, 1923, said Alex J. Johnson resigned his membership on said Illinois Commerce Commission and was succeeded on that day by Edward H. Wright as a member of the said commission;

Now, therefore, it is hereby ordered, with the consent of all of the parties hereto by their several respective solicitors that said William Burkhardt may be, and he is hereby, substituted as a party defendant herein in place of said James F. Sullivan and that said Edward H. Wright may be, and he is hereby, substituted as a party defendant herein in place of said Alex J. Johnson; and

It is further ordered with the consent of all of the parties hereto that said William Burkhardt and said Edward H. Wright so made parties defendant herein, hereby adopt for all purposes the answer of Frank L. Smith, *et al.* heretofore filed herein on October 6, 1923, and agree to abide by the decree of the court entered December 21, 1923, so long as the same shall remain in force as fully as if they had been named therein, and also agree to abide the further order of this court; and

It is further ordered that in all future proceedings in this cause either in the court below or upon appeal to the Supreme Court of the United States the seven individual persons now constituting the Illinois Commerce Commission, namely, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, William Burkhardt, Edward H. Wright and William J. Smith, shall be considered as proper parties defendant in this cause as fully as if all of said seven individuals (now composing said Illinois Commerce Commission) had been originally named in the bill of complaint herein, and the names of

said seven present members of the Commission shall hereafter be used in the entitling of all pleadings or orders herein whether in the court below or upon appeal; and

It is further ordered that said James F. Sullivan and Alex J. Johnson are hereby dismissed as defendants in this cause; and

It is further ordered, with the consent of all of the parties hereto, that any appeal to be perfected by the defendants in this cause (or any of them) from the interlocutory decree entered by the special statutory court on December 21, 1923, may and shall refer to the above named seven present members of said Illinois Commerce Commission as defendants in this cause; and

It is further ordered, that all pleadings, orders or decrees heretofore filed or entered in this cause wherein the individual members of the Illinois Commerce Commission are improperly named or wherein the seven individuals now comprising said Commission are not properly set forth and referred to as defendants, are hereby amended so as to properly name and describe said seven persons now constituting said Commission as defendants herein as fully as if they had been originally so named in the bill of complaint herein and in all other pleadings and orders or decrees heretofore filed or entered herein.

EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON,
Judges of the District Court of the United States.

ORDER ALLOWING APPEAL

Filed Jan. 18, 1924.

This day came the defendants and presented to the court their petition for appeal and assignment of errors and moved the court for the allowance of an appeal to the Supreme Court of the United States from the interlocutory order or decree of injunction heretofore entered herein on December 21, 1923, and upon consideration thereof it is hereby now

Ordered and adjudged by the court that leave is hereby given to file said petition and assignment of errors and that said appeal be and the same is hereby allowed, and it is

Further ordered that a bond to cover the costs of appeal herein is hereby dispensed with.

Dated Chicago, Illinois, January 18, 1924.

EVAN A. EVANS,
GEORGE T. PAGE,
United States Circuit Judges.
JAMES H. WILKERSON,
United States District Judge.

MANDATE.

UNITED STATES OF AMERICA, ss:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court of the United States for the Northern District of
(Seal) *Illinois.*

Greeting:

WHEREAS, lately in the District Court of the United States for the District of Illinois, before you, or some of you, in a cause between Illinois Bell Telephone Company, complainant, and Frank L. Smith, *et al.*, the persons constituting the Illinois Commerce Commission of the State of Illinois, *et al.*, defendants, No. 3746, wherein the decree of the said District Court, entered in said cause on the 21st day of December, A. D. 1923, is in the following words, viz.:

"This cause came on to be further heard before the Honorable Evan A. Evans, George T. Page, Circuit Judges of this district, and Honorable James H. Wilkerson, District Judge of this district, constituting the spe-

cial statutory court under the provisions of Section 266 of the Judicial Code, upon the motion of the Plaintiff for a preliminary injunction, as prayed for in the bill of complaint herein, and said motion having been argued by counsel for all of the parties,

Now, after considering the pleadings in the cause and the affidavits submitted on behalf of the Plaintiff and the affidavits submitted on behalf of the Defendants, and said affidavits being conflicting, and the court being of the opinion, from all the facts before the court that a preliminary injunction should issue because the rates are confiscatory, and that the whole matter should go to a final hearing upon the merits upon evidence to be adduced before the court and not merely upon affidavits; that it is therefore best to have the matter disposed of at the final hearing of the cause upon the merits, and the court being prepared to set the case down for immediate trial and it appearing that final disposition of the suit on its merits made within a few weeks, and that, pending such final hearing, a preliminary injunction should be granted as prayed for by the Plaintiff in the bill of complaint herein, is accordingly

Ordered and decreed that the defendants, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, James F. Sullivan, Alex J. Johnson and William J. Smith, the persons constituting the Illinois Commerce Commission of the State of Illinois, Edward J. Brundage, Attorney General of the State of Illinois, and/or their successors in office, and City of Chicago, a municipal corporation, be and they are hereby severally enjoined and restrained, pending the trial and determination of this cause, and until the further order of the Court, from attempting to compel the Plaintiff, its officers, agents or employees, to observe, or put in force on October 1, 1923, or to observe and keep in force thereafter, the rates for telephone service prescribed by the order of the Illinois Commerce Commission of August 16, 1923, set forth in said bill, and that the defendants and/or their successors in office be, and they are hereby enjoined and restrained, pending the trial and determination of this cause, and until the further order of the Court, from taking any steps or proceedings against the plaintiff, its officers, agents or employees, to enforce any penalties or any other remedy against the plaintiff for disregarding the rates prescribed by said order.

This order shall not take effect until the plaintiff shall enter into its bond or undertaking in the sum of One Million Dollars ($1,000,000), conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained by a temporary restraining order heretofore on September 27, 1923, entered in this cause by this court or by this interlocutory injunction, and further conditioned so that in the event that this interlocutory injunction shall be hereafter dissolved, the plaintiff shall refund to its several subscribers, either in cash or by credit upon subsequent bills, any sums paid by them in excess of the sums chargeable to them, pursuant to the provisions of said order of the Illinois Commerce Commission.

To the entry of which order the defendants by their solicitors object and except.

EVAN A. EVANS,
GEO. T. PAGE,
Circuit Judges.
JAMES H. WILKERSON,
District Judge."

as by the inspection of the transcript of the record of the said District Court, which was brought into the Supreme Court of the United States by virtue of an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand nine hundred and twenty-five, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel:

ON CONSIDERATION WHEREOF, IT IS NOW HERE ORDERED, ADJUDGED AND DECREED by this Court that the decree of the said District Court in this cause be, and the same is hereby, affirmed, with costs; and that the said complainant, Illinois Bell Telephone Company, recover against the said defendants, for its costs herein expended and have execution therefor.

October 19, 1925.

You, therefore, are hereby commanded that such execution and proceedings be had in such cause, as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

WITNESS the Honorable WILLIAM H. TAFT, Chief Justice of the United States, the fourth day of December, in the year of our Lord one thousand nine hundred and twenty-five.

WM. R. STANSBURY,
Clerk of the Supreme Court of the United States.

ORDER

Entered Jan. 26, 1927.

It appearing to the Court that the Illinois Bell Telephone Company has since the entry of the temporary restraining order in this cause on September 27, 1923, kept in its records statements showing the amount of use of coin box subscribers in the City of Chicago, their names and addresses, and has delivered to said subscribers carbon copies of said statements; and it further appearing to the Court that the City of Chicago, intervener herein, has requested that the practice of the Company in this regard be made a matter of record herein,

IT IS THEREFORE ORDERED that, pending the final determination of this cause, the Illinois Bell Telephone Company, plaintiff, herein, shall preserve its aforesaid records, and shall continue until the final determination of this cause to keep said records, as aforesaid, so that in the event that the interlocutory injunction heretofore on, to-wit, December 21, 1923, entered by this Court shall be hereafter dissolved, the Illinois Bell Telephone Company shall be in a position to refund to its several subscribers, either in cash or by credit upon subsequent bills, in such way and manner as the Court may hereafter direct, any sums paid by them in excess of the sums properly chargeable to them, pursuant to the provisions of said order of the Illinois Commerce Commission.

Enter:

(Signed) EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON.

Approved as to form:

(Signed) OSCAR E. CARLSTROM,
Solicitor for Illinois Commerce Commission and Certain Defendants.

CHARLES S. CUTTING, N. G. MOORE, W. P. SIDLEY, W. D. BANGS,
Solicitors for Illinois Bell Telephone Company.

FRANCIS X. BUSCH and STEPHEN A. FOSTER,
Solicitors for City of Chicago.

Motion for Judgment on the Pleadings

Filed Nov. 26, 1926.

Now comes Illinois Bell Telephone Company, a corporation, plaintiff in the above entitled cause, by Charles S. Cutting, N. G. Moore, William P Sidley, and William D. Bangs, its solicitors, and files this its motion for the entry of a final judgment and decree in this cause, upon the pleadings, bill and answers of record herein.

And in support of its motion plaintiff shows:

That the bill of complaint in this cause is filed to restrain and enjoin the enforcement of a certain pretended order of the Illinois Commerce Commission of the State of Illinois, entered August 16, 1923, purporting to become and be effective on October 1, 1923, a copy of which said order is attached to and made a part of the bill of complaint herein as Exhibit C;

That the defendants admit by their answers that the said purported order of the Illinois Commerce Commission in controversy in this cause, is in the language of the copy thereof attached to the said bill of complaint herein and made a part thereof as Exhibit C thereto (except defendants allege that whereas the copy attached to the bill of complaint herein is entitled "final-order," the order of the Commission was not so entitled, which plaintiff admits);

That there is no controversy nor dispute between the parties to the cause as to the exact language of the said order of the said Illinois Commerce Commission;

That the plaintiff in its said bill of complaint herein filed, among other matters alleged:

> "Fourth—That this suit is of a civil nature in equity, and is brought for the purpose of enjoining the enforcement of a certain order of said Illinois Commerce Commission dated August 16, 1923, prescribing certain rates and charges to be charged by the plaintiff on and after October 1, 1923 to its subscribers and patrons within the City of Chicago, as hereinafter more particularly stated, and arises under the Constitution and laws of the United States, in that, as plaintiff avers, the rates prescribed in said order are confiscatory of plaintiff's property used or useful in furnishing said telephone service, and said order therefore seeks to deprive the plaintiff of its property without due process of law, and denies the plaintiff the equal protection of the laws, in violation of its rights under the Fourteenth Amendment to the Constitution of

the United States, and that said order is therefore null and void. * * *

Tenth—That the Illinois Commerce Commission, under the laws of the State of Illinois, had no authority to prescribe rates to be charged by the plaintiff in lieu of the present rates to be charged by the plaintiff except upon a valid finding that the said present rates are unjust, unreasonable, discriminatory or preferential, or in anywise in violation of any provisions of law; that the finding of said Illinois Commerce Commission in said order of August 16, 1923 that the present rates of the plaintiff are unjust and unreasonable is void, as appears from said finding, and that the rates therein prescribed are therefore contrary to law and void.

That in its findings in said order the said Commission did not fix and determine proper valuations of the property of the plaintiff, and in arriving at the value fixed in said order of $96,000,000, the Commission omitted certain portions of the said property of the plaintiff, and in its findings in said order arbitrarily disregarded and disallowed certain expenses of the plaintiff reasonably incurred in operating its said property and disregarded certain orders and rules of the Interstate Commerce Commission, all contrary to law, and that for the reasons aforesaid the said order of said Commission is null and void."

and that the defendants in their respective answers denied said allegations;

That it appearing from an examination of the said order and the findings of the Illinois Commerce Commission therein set forth that the said order is null and void, insufficient, confiscatory, and without binding effect, upon the grounds so alleged in said bill of complaint and above set forth, extended hearings and the introduction of voluminous and complicated evidence and proof are wholly unnecessary under the state of the pleadings in this cause, and unduly burdensome upon the court and all parties.

The plaintiff therefore prays that pursuant to this motion it may be ordered, adjudged and decreed by the Court that the said pretended order of the said Illinois Commerce Commission of the State of Illinois hereinabove described, was and is wholly void, insufficient, invalid and of no binding force or effect, and that it may be further ordered, adjudged and decreed that the defendants, their successors in office and all other persons be severally enjoined and restrained forever

from attempting to compel the plaintiff, its officers, agents or employees, to observe or put in force now or hereafter the rates for telephone service prescribed by the said order of the said Illinois Commerce Commission on August 16, 1923, and that the said defendants, their successors in office and all other persons be forever enjoined and restrained from taking any steps or proceedings against the plaintiff, its officers, agents or employees, to enforce any penalties or any other remedy against the plaintiff for disregarding the rates prescribed by said order, and that plaintiff herein be absolved from any and all liabilities on the bond by it heretofore filed herein.

And the plaintiff further prays that the Court call to its assistance to hear and determine this motion, two other Judges, one to be a Circuit Judge, pursuant to the statute of the United States in such case made and provided.

And in presenting this motion the plaintiff saves and reserves unto itself, all of its rights in the presentation of evidence and proof and hearing upon the merits of the issues of fact and law otherwise than as above stated, involved in this cause, in the event it should be determined that final judgment and decree should not be entered pursuant to this motion.

ILLINOIS BELL TELEPHONE COMPANY,
a corporation,
By CHARLES S. CUTTING,
N. G. MOORE,
WILLIAM P. SIDLEY,
WILLIAM D. BANGS,
Its Solicitors.

MEMORANDUM
Filed July 11, 1927.

Before Evans and Page, Circuit Judges, and Wilkerson, District Judge.

Plaintiff has moved for a permanent injunction on the pleadings. This is on the assumption that the record affirmatively discloses a prejudicial error made by the Illinois Commerce Commission and which error appears in finding nine of the Commission's order of August 16, 1923. Upon the assumption of this error, plaintiff argues that the order must be enjoined regardless of whether the rate fixed is just or not. In support of this contention, it cites and relies upon *Wichita Railroad & Light Company* v. *Public Utilities Commission of the State of Kansas, et al.*, 260 U. S. 48.

In that case the court held the order of the Commission to be void because it did not contain a finding of fact, necessary under the Kansas statute to the validity of the order. It seems to us that the force of the entire decision is summed up in the single sentence, "When, therefore, such an administrative agency is required as a condition precedent to an order to make a finding of fact, the validity of the order must rest upon the needed finding.

If it is lacking the order is ineffective."

Our case is entirely different. The Illinois Commerce Commission heard the evidence and made findings. It is the contention of the plaintiffs that it can, and has demonstrated that the Commission erred. But did its error result in a confiscatory rate? That is the question. Plaintiff's bill recites facts which indicate, and the allegation is directly made, that such rates are confiscatory. The answer denies the charge. Defendants, in their ninth paragraph say:

> "This defendant denies that the rates and charges prescribed by the order of the Illinois Commerce Commission will not afford the plaintiff a fair return upon the fair value at the time of use of its property used or useful in and exclusively devoted to intrastate telephone service in the city of Chicago and denies that such rates and charges are confiscatory and denies that they are not fair and reasonable rates. This defendant further denies on information and belief that said rates and charges, if permitted to become effective will reduce the amount available for the return of the plaintiff by not less than the sum of $1,700,000 per annum and in this connection this defendant says that it is impossible to predict in advance that for any length of time, if at all, the revenues of the plaintiff will be reduced if said order of the Commission is allowed to become effective; that it is to be expected that if the rates for the four classes of service covered by said order are permitted to go into effect the telephone subscribers enjoying said classes of services will increase their use thereof and that this increased use will produce for the plaintiff a revenue nearly, if not equal, to that at present enjoyed by it from those classes of telephone users. And this defendant further answering denies that said rates and charges, if enforced, will deprive plaintiff of its property without due process of law or will deny to plaintiff the equal protection of the laws in violation of its rights under the Fourteenth Amendment of the Constitution of the United States."

In other ways and places defendants deny material facts alleged in the plaintiff's bill.

Plaintiff very clearly and concisely stated its position thus:

> "We contend that if an order of the Commission is void for want of a required finding, or if the facts found by the commission in its order show conclusively and affirmatively that the order is void, as a matter of law, the order must be enjoined."

Accepting for the purpose of this argument the correctness of this position, controversy immediately arises as to its application.

Obviously there is no "want of a required finding" and this ground of attack upon the order can be definitely and promptly eliminated. We must, therefore, direct our attention to the query, do the facts found by the commission in its order show conclusively and affirmatively that the order is void as a matter of law? The answer to this query necessitates an examination of the findings and finding sixteen is herewith set forth verbatim:

> "(16) That the rates as hereinafter authorized will return sufficient revenue during the ensuing year to permit the Illinois Bell Telephone Company to earn a revenue sufficient to meet the findings hereinabove as to operating expenses, maintenance and replacements reserve and pay a return of 7½% upon the rate base as hereinabove found, and that, therefore, the rates hereinafter authorized are the just and reasonable rates for telephone service in the City of Chicago and should remain in effect until further order of the Commission."

Likewise paragraph three of the order is quoted in full:

> "(3) That the Chicago Division of the Illinois Bell Telephone Company shall file with the Commission monthly accounting reports on the same form as heretofore filed, setting forth the information thereon required and that such reports shall be filed within thirty (30) days of the close of each month beginning with the first month subsequent to the date of rates herein authorized.
>
> The Commission especially retains jurisdiction of this cause for the purpose of making further inquiry, upon application, as to the sufficiency or insufficiency of the rates authorized herein and for the further purpose of modifying the said rates should the evidence adduced in any future investigation of the relations between the Illinois Bell Telephone Company and the American Telephone and Telegraph Company and the Western Electric Company require such modification."

Does it necessarily follow that because one item entering into the valuation is arrived at by an erroneous method, the rate fixed in the order is erroneous and void? We think not. In the first place, the item may be relatively small and a reasonable return on the difference accounted for by the error, a negligible factor. Moreover, the return may be so high that a court of equity will allow for an increase in the valuation without declaring the rate to be confiscatory.

To illustrate, let us assume the Commission found the value of the utility to be one million dollars when it should have been fixed at one million one hundred thousand dollars ($1,100,000). Assume further that the commission fixed a rate that would produce twelve per cent on one million or eleven per cent on one million one hundred thousand dollars. No court of equity would declare the rate confiscatory notwithstanding an error in the valuation. Or assume, as in the first case, that the valuation should have been one million dollars whereas the commission left out a small item like "cash necessary for daily use." The commission fixed a rate that would produce a return of 7½%. Notwithstanding the error in valuation, the rate would not be enjoined.

When this matter was before the court upon plaintiff's application for a temporary injunction, the court in its injunctional order, expressly recognized the existence of a controversy. In this order, the Court said:

> "Now, after considering the pleadings in the cause and the affidavits submitted on behalf of the plaintiff and the affidavits submitted on behalf of the defendants, and said affidavits being conflicting, and the court, being of the opinion, from all the facts before the court that the preliminary injunction should issue because the rates are confiscatory, and that the whole matter should go to a final hearing upon the merits upon evidence to be adduced before the court and not merely upon affidavits; that it is therefore best to have the matter disposed of at the final hearing of the cause upon the merits, and the court being prepared to set the case down for immediate trial, and it appearing that final disposition of the suit on its merits made within a few weeks, and that, pending such final hearing, a preliminary injunction should be granted, etc."

The court at that time, when it had heard counsel at length was convinced that certain issues of fact could not well be disposed of except upon a hearing where cross-examinations of the witnesses would tend to a more accurate ascertainment

of the facts. Reference is made to a certain per cent of the gross revenue paid by the local company to a parent company as royalty. The correctness of this item was challenged and its correct determination raises a fact issue upon which either party may present evidence. This is only one of several items in dispute.

The present case permits of the application of no exception to the general rule governing the disposition of the cases on pleadings. Judgment on the pleadings will not be entered where there is a controversy over material facts upon which the judgment is predicated.

Here the controversy is over an alleged confiscatory rate. It is not a suit to determine the value of the company's property. Value is unquestionably a factor upon which rates are determined but it is only one of many factors. Allowance for operating cost, depreciation, sums paid the parent company for royalties on patents, are all important factors in the present case in the determination of reasonable rates.

It is true plaintiff asserts that the rates which are filed in the Commissioner's order are confiscatory. Defendants deny the allegation. The issue is not whether the commission made some error in receiving or rejecting evidence, in applying or misapplying a rule of law at some step in the proceeding. Rather it is a question of prejudicial error,—whether in its final conclusion (the determination of the rate) plaintiff's property rights were invaded in violation of its guaranty under the constitution.

In a word, are the rates which the Commission fixed confiscatory? This is an issue of fact upon which both parties can be heard. The city too may be heard upon this issue and is not bound by the reasoning and conclusions of the commission any more than the utility is bound by a decision where the rate fixed by the commission is satisfactory to the utility but unsatisfactory to the user.

The motion for judgment on the pleadings is denied.

EVAN A. EVANS
GEORGE T. PAGE
JAMES WILKERSON
Judges.

OPINION FILED JANUARY 31, 1930.

The bill in this case, filed September 20, 1923, seeks to enjoin, on grounds of confiscation, rates for telephone service prescribed in an order of the Illinois Commerce Commission made on August 16, 1923, and effective October 1, 1923.

The rates now charged are those fixed by the Public Utilities Commission (the predecessor of the Commerce Commission) by order of December 20, 1920. The Commerce Commission instituted proceedings against the plaintiff on September 13, 1921, and by the order here attacked, reduced the rates for four classes of coin box service.

The bill alleges that some of the company's property was arbitrarily disregarded in making the valuation, that the valuation is too low, and that certain expenses were improperly rejected. The Commission and the City of Chicago, which was permitted to intervene as a defendant, answered the bill. Application for a temporary injunction was made. This was granted on December 21, 1923, after a hearing on affidavits, in which the disputed points were covered at length on both sides. The injunctional order recites that the affidavits are conflicting, that the court is of the opinion that the preliminary injunction should issue because the rates are confiscatory, that the whole matter should go to a final hearing upon evidence to be adduced before the court and not merely upon affidavits, that the court is prepared to set the case down for immediate trial, that a final disposition of the suit on its merits can be made within a few weeks, and, that pending such final hearing, a preliminary injunction should be granted.

The defendants did not avail themselves of the offer of an immediate trial tendered by the court, but elected to appeal to the Supreme Court from the order granting the temporary injunction. That order was affirmed in a memorandum opinion October 19, 1925 (*Smith* v. *Illinois Bell Telephone Company*, 269 U. S. 531). Plaintiff then moved for a permanent injunction on the pleadings. That motion was denied, the reasons for the ruling being stated in the memorandum filed July 1, 1927.

The order granting the temporary injunction required plaintiff to enter into an undertaking that it would refund

to its subscribers the amounts paid by them in excess of the sums chargeable under the order of August 16, 1923. The amounts so reserved for refunds up to January 1, 1929, were as follows: $427,289 for the last quarter of 1923; $1,719,624 for 1924; $1,765,444 for 1925; $1,774,492 for 1926; $1,793,918 for 1927; $1,812,746 for 1928. The exact sum for 1929 is not in the record, but almost two million dollars more has been added to the amount which has been accumulated in the reservation for refunds, the entire amount of such reservation being now more than eleven million dollars.

Delay in bringing the case to trial is attributable to the City. The Company has been ready at all times to proceed. Postponements were sought repeatedly by the City on the ground of change of counsel, lack of preparation and inability to procure money with which to employ experts. Finally there was a peremptory setting of the case for trial on April 15, 1929. Counsel who now represent the City then came into the case and proceeded with the trial without delay. By agreement the evidence was taken before one of the judges. Hearings were held during a period of approximately two months and a record made consisting of 3,000 pages of testimony and 281 exhibits.

We consider first the City's attack upon the standing of the Illinois Company as the real plaintiff in the case. Ninety-nine per cent of the stock of the Illinois Company is owned by the American Telephone and Telegraph Company, which owns also substantially the same proportion of the stock of the Western Electric Company. The Illinois and American Companies unite in rendering long distance service under an arrangement for division of tolls. At the time of this inquiry, October 1, 1923, there was in effect an agreement by which the Illinois Company paid to the American Company 4½ per cent of its gross revenues for rent of instruments and as compensation for engineering, executive, financial and other services. A large part of the materials entering into the construction of the plant and equipment of the Illinois Company were purchased from the Western Electric Company and much of its operating expense consisted of payments made under a contract with that Company for apparatus and supplies.

The American Company, at the time in question, owned a controlling interest in 15 telephone companies which,

in connection with other companies controlled by those subsidiaries and some companies in which its interest was not controlling, were and now are operated as a system with the avowed purpose of rendering a nation-wide and unified telephone service. "The Associated Companies," the American Company says, "are specialists in local service problems, with local operating forces identified and familiar with the needs of the communities they serve. The parent Company undertakes the solution of the problems that are common to all." In this way, it is said there is provided a central authority equipped to perform adequately general functions, leaving to the local companies responsibility for local affairs.

The City urges that, in bringing about this unified service, the American Company has exercised its control in such a way as to destroy the corporate identity of the Illinois Company with the result that either the suit must fail for lack of the real plaintiff or, if permitted to stand, must be tried as if the American Company were the party before the Court. "The Illinois Company," it is said, "is a mere agency or instrumentality of the American Company." The stock ownership gives to the American Company power to control the Illinois Company through the election of directors. This power, in itself, however, does not make the American Company the one which is operating the local public utility. It does not have the effect of destroying the separate corporate identity of the local Company. The stock ownership does not give authority to dictate the acts of the directors of the local company; and, against accusations of fraud and misconduct, it will be presumed that the directors have performed their official duties honestly and have acted in good faith with respect to the corporation of whose affairs they are in charge and the public to which it gives service. (*Pullman Palace Car Co.* v. *Missouri Pacific Co.*, 115 U. S. 587, 596; *Porter* v. *Pittsburgh Bessemer Steel Co.*, 120 U. S. 649, 670; *Peterson* v. *Chicago, Rock Island and Pacific Ry.*, 205 U. S. 364, 383; *Houston* v. *S. W. Bell Tel. Co.*, 259 U. S. 318, 323; *Missouri ex rel. S. W. Bell Tel. Co.*, 262 U. S. 276, 288, 289; *Indiana Bell Telephone Co.* v. *Public Service Com.*, 300 Fed. 190, 204; *Northwestern Bell Telephone Co.* v. *Spillman*, 6 Fed. (2d) 663).

Courts, of course, will look through form to substance. Where the power of stock ownership is so exercised as

to commingle the affairs of the corporations and make them practically one, Courts will not permit themselves "to be blinded or deceived by mere forms of law, but, regardless of fiction, will deal with the substance of the transaction involved as if the corporate agency did not exist and as the justice of the case may require." (*U. S.* v. *Delaware and Hudson Co.*, 213 U. S. 366; *C. M. and St. P. Ry. Co.* v. *Minneapolis Civic and Commerce Association*, 247 U. S. 490.)

It must not be overlooked that the order of the Commission here involved is directed against the Illinois Company. The Commission did not find that the corporate identity of the Illinois Company had been destroyed. It was treated as a corporation for the purpose of compelling it to establish the prescribed rates for service furnished by the operation of the property to which it has the legal title. It is not a fair application of the rule invoked by the City to say that the order of the Commission may be enforced against the Illinois Company, as a corporate entity, and that the Company then loses its corporate character when it attempts to show that the Commission's order is confiscatory. Moreover, the Commission, in establishing the rates complained against, did not deal with the business of the Illinois Company as an integral part of the business of the American Company. The City maintains that the question to be determined is "What is a fair return to the investors who have placed their investment in the American Telephone and Telegraph Company, the real operator of the Chicago property in so far as the local property and the local use is concerned?" The Commission did not proceed on that theory. The Commission did not make an investigation of the business of the American Company for the purpose of fixing rates for that Company. If the position now taken by the City is correct, the method pursued by the Commission is fundamentally erroneous and its order is void. (*Northern P. R. Co.* v. *Department of Public Works*, 268 U. S. 39, 43; *Chicago, M. & St. P. Ry. Co.* v. *Public Utilities Commission*, 274 U. S. 344, 351.)

The City's contention that the American Company has abused its power of stock ownership and has dominated and controlled the officers and directors of the Illinois Company with the result that they exercise no will of their own and the Illinois Company is reduced to a mere

agency or instrumentality of the American Company is not sustained by the evidence. This evidence includes the Annual Reports of the American Company from 1881 to date, a selection of bulletins, circulars and letters sent by the General Staff of the American Company and some oral testimony as to alleged instances of dictation. The evidence shows a coordination of activities with a view to producing an efficient, unified service. The plan of organization, the ownership of property and the method of operation show that the American and Illinois Companies functioned in distinct fields of activity. At no time have more than three of the eleven directors of the Illinois Company been officers of the American Company. The charges of neglect of duty and breach of trust against the directors necessarily implied in the assertion that the Illinois Company has lost its corporate identity are unsustained by proof. We do not find anything in the long record on this branch of the case which furnishes a sufficient reason for departing from the general rule applicable to transactions between companies related through stock ownership as are the American and Illinois Companies. That rule is stated by the Supreme Court in a case (*Houston* v. *S. W. Bell Tel. Co.*, 259 U. S. 318, 323), involving the American Company, the Western Electric Company and the Southwestern Bell Telephone Company, another subsidiary of the American Company, as follows:

> "The American Telegraph and Telephone Company owns substantially all of the stock of the Company and a large majority of the stock of the Western Electric Company. From the American Telegraph and Telephone Company the Company leases its instruments and secures their maintenance and renewal, and from the Western Electric Company it obtains the greater part of its equipment and supplies used in operating its local exchange. It is contended by the City that no fair disclosure was made of the profits made by the furnishing companies on the instruments and on the material and supplies so furnished, and that, for this unique reason the Company should not be heard in a Court of Equity and the case should be dismissed. It is true that the Company did not introduce proof to show what the profits of the two Companies were, either upon the business done with it or on their entire business; but

it did introduce much evidence tending to show that the charge made and allowed for the services rendered and supplies furnished by them was reasonable and less than the same could be obtained for from other sources. Under the circumstances disclosed in the evidence the fact that the American Telegraph and Telephone Company controlled the Company and the Western Electric Company by stock ownership is not important beyond requiring close scrutiny of their dealings to prevent imposition upon the community served by the Company. * * *"

And in *United Fuel Gas Co.* v. *Railroad Commission,* 278 U. S. 300, 320, 321, it is said:

"We need not labor the point that a public service corporation may not make a rate confiscatory by reducing its net earnings through the device of a contract unduly favoring a subsidiary or a corporation owned by its own stockholders. Cf. *Chicago and G. T. R. Co.* v. *Wellman,* 143 U. S. 339, 345. We recognize that a public service commission, under the guise of establishing a fair rate, may not usurp the functions of the Company's directors and in every case substitute its judgment for theirs as to the propriety of contracts entered into by the utility; and common ownership is not of itself sufficient ground for disregarding such intercorporate agreements, when it appears that, although an affiliated corporation may be receiving the larger share of the profits, the regulated Company is still receiving substantial benefits from the contract and probably could not have secured better terms elsewhere. (*Missouri ex rel. S. W. Bell Tel. Co.* v. *Public Service Com.,* 262 U. S. 276, 288; *Houston* v. *S. W. Telephone Co.,* 259 U. S. 318.)"

The Illinois Company is to be treated as the real plaintiff in this case. While agreements with the American Company, so far as they affect the question of confiscation, are to be scrutinized carefully, they are not to be rejected as shams; nor may findings of the Commission as to what would be fair and reasonable contracts be substituted for them unless it appears they were made in bad faith and as a device for unduly enhancing the earnings of the American Company at the expense of the Illinois Company.

Another preliminary question which should be disposed of before passing to questions of earnings and value relates to the separation of plaintiff's interstate property, revenue and expenses and the division of long distance tolls with the American property.

The property of plaintiff in Chicago is used to render (a) Exchange service all of which is intrastate; (b) intrastate toll service over its own lines and under arrangements with other Companies than the American; (c) interstate toll service, which includes all the toll service rendered under arrangements with the American Company. The Commission in making the order complained against dealt with plaintiff's Chicago property and business as an entirety. No separation of interstate property and business was made by the Company, and the Commission's order which covered exchange service in Chicago was based upon a valuation of all of plaintiff's Chicago property and a consideration of its total Chicago revenues and expenses.

The Illinois Company owns and operates all the property in the City of Chicago used in interstate calls, and connects with the property owned by the American Company at the city limits of Chicago. This part of the business of the Illinois Company is interstate commerce. (*Public Utilities Commission of Rhode Island* v. *Attleboro Steam and Electric Co.*, 273 U. S. 83; *South Covington and Cincinnati St. Ry. Co.* v. *City of Covington*, 235 U. S. 537.)

Following the rule stated in the Minnesota Rate Cases plaintiff, which is attacking as confiscatory the order of a State Commission, has made a showing not only upon the basis stated in the Commission's order but upon the basis of intrastate business alone. As the Commission's order dealt directly with exchange rates only, plaintiff has also made a showing as of June 30, 1923, in which all toll business both interstate and intrastate is eliminated. The accuracy of these computations can not be questioned, if the principles on which they are made are correct. They show a larger rate of return upon the property used when all the business is considered than is shown when either the interstate or the entire toll business is eliminated. The case, therefore, is presented in its least favorable aspect as to plaintiff's claim of confiscation by following the method adopted by the Commission and making no separation of toll business, either

interstate or intrastate. According to these computations ½ of 1 per cent of calls originated by subscribers resulted in interstate toll calls, 3.62 per cent of plaintiff's property in Chicago was used in furnishing interstate toll service, and 2.54 per cent of its property was used in furnishing intrastate toll service. The per cent of return at the rates now in force shown on plaintiff's claimed reproduction cost new was 4.32 per cent for total Chicago business, 4.15 per cent for total intrastate business, and 3.97 per cent for intrastate exchange business. The per cent of return shown on plaintiff's claimed original cost was 6.23 per cent for total Chicago business, 5.99 per cent for total intrastate business and 5.74 per cent for intrastate exchange business. The difference, therefore, assuming the correctness of plaintiff's method, will not affect the result and may be disregarded for the purposes of this case.

The defendants claim, however, that the basis of separation was erroneous and did not include a sufficient amount of the Company's property as used in interstate commerce. They assert that in the proportion assigned to the interstate use there should be included an item covering the use of the exchange property, that is to say the use of that property from the subscriber's station to the toll board. The method employed by the Company was upon the basis of use from the toll switchboard and no portion of the property from the subscriber's station to the toll trunks was considered as interstate commerce. Defendants have neither shown nor stated the amount to be added on account of the alleged interstate use of exchange property, but that it can not affect the result in this case will be evident hereafter, if it is borne in mind that, as above stated, only ½ of 1 per cent of calls originated by subscribers resulted in interstate calls.

The separation of interstate from intrastate business is a difficult problem which the courts recognize and do not require exactness of proof. A separation made upon a reasonable basis will be approved and this is particularly true where those opposing it adopt a purely negative attitude and offer no affirmative evidence. (*Rowland* v. *St. L. and S. F. R. Co.*, 244 U. S. 106; *Groesbeck* v. *Duluth S. S. and A. Ry Co.*, 250 U. S. 607; *Boyle* v. *St. Louis and S. F. R. R. Co.*, 222 Fed. 539; *Southern Bell Telephone Co.* v. *Railroad Commission of South Carolina,*

5 Fed. (2nd) 77; *Queens Borough Gas and Electric Co.* v. *Prendergast,* 31 Fed. (2nd) 339; *New York Telephone Company* v. *Prendergast* (D. C. Southern District of New York, decided November 7, 1929.)

The toll rates filed by the Company provided:

> "The service covered by these tariffs consists in furnishing for the use of patrons facilities, other than exchange facilities, intended for use in telephonic communication between the points listed. The exchange facilities used in connection with this service are the facilities required to establish connection between an exchange station and the toll board, or between an exchange station and the toll trunks, when such trunks are employed to effect connection with the toll board, and the use of such facilities is covered by the charges for exchange service."

This provision in the schedules and the method followed by the Company in making the separation are in accord with the rulings of the Courts and Commissions which have considered this subject. (*Re Rock Island County Farmers Telephone Co.*, P. U. R. 1925-A 178; *Public Utilities Com.* v. *New England Telephone and Telegraph Co.*, P. U. R. 1926-C 207, 261; *Pacific Co.* v. *Whitcomb,* 12 Fed. (2nd) 279; *New York Telephone Co.* v. *Prendergast,* 300 Fed. 822, 826, 827, and same case on final hearing, *supra.*) In *Houston* v. *Southwestern Bell Telephone Company,* 259 U. S. 318, 323, the Supreme Court considered the partial separation of the interstate property, but an examination of the facts of that case shows that it does not sustain defendants' theory of including exchange property as interstate property.

The method followed by the Illinois Company in making a separation of its interstate property is a reasonable one and is approved.

Defendants attack the fairness of the division of interstate tolls between the American and Illinois Companies. If the interstate business of the Illinois Company is excluded in determining the issue of confiscation, it is not necessary, obviously, to consider the question of the division of interstate tolls. If the issue of confiscation is to be determined upon a consideration of the entire Chicago business of the Illinois Company we should examine the objections made to the division of interstate tolls. Those tolls were divided under an arrangement

by which the American Company paid an originating commission of 17 cents per message and in addition thereto the actual cost of operation of the toll switchboard and the toll lines plus 10 per cent for overhead and a 10 per cent return on the book cost thereof. All these payments resulted in the Illinois Company retaining from 45 to 49 per cent of the total gross of the originating long distance tolls. The originating commission of 17 cents was a greater commission than that paid by the Illinois Company to the several hundred independent companies with which it connects in the State of Illinois. The originating commission for the year 1923 was $363,000. As a result of this arrangement the Illinois Company was earning 12.64 per cent on the book cost of its interstate toll property, while the return on its exchange property was only 5.74 per cent on book cost. This division of the tolls appears to be fair and reasonable. There is no proof of abuse of discretion or fraud in making it. The sinister inference which the City seeks to have drawn from certain changes in the arrangement is not warranted by the facts. A close scrutiny of the arrangement does not disclose any reason why it should be rejected in determining the revenues of the Illinois Company or why the Company should be charged with additional earnings on the theory that the division was unfair and more should have been collected from the American Company than was, in fact, received. (*Chesapeake and Potomac Telephone Company* v. *Whitman*, 3 Fed. (2nd) 938, 957.)

We determine, therefore, the issue of confiscation on the basis of the total Chicago property of plaintiff. We do this for the reason that, as pointed out above, that basis is less favorable to the plaintiff than that of its total intrastate property or its intrastate exchange property. The Commission proceeded on the basis of total Chicago property and it will be more convenient to examine the order without recasting the figures to make allowances for interstate or intrastate toll property and earnings which cannot affect the result.

We consider first the questions relating to revenues and expenses and then those relating to value.

The Company's showing of revenues and expenses for 1923 is as follows:

	Actual First Seven Months 1923	(a) Computed on an Annual Basis at Actual Rate of First Seven Months 1923	Actual Year 1923
Exchange Revenues	$21,102,900	$36,176,400	$36,342,226
Toll Revenues	1,699,882	2,914,084	3,042,994
Miscellaneous Operating Revenues	370,725	635,528	673,049
Non-Operating Revenues	337,106	577,896	760,966
Gross Revenues	$23,510,613	$40,303,908	$40,819,235
Less: Licensee Revenue—Dr.	1,008,958	1,729,643	1,724,251
Total Revenues	$22,501,655	$38,574,265	$39,094,984
Traffic Expenses	7,609,294	13,044,504	13,192,673
Commercial Expenses	2,405,983	4,124,542	4,202,273
General and Miscellaneous Expenses	684,105	1,172,751	1,063,194
Current Maintenance	3,273,440	5,611,613	5,901,733
Depreciation	2,495,127	4,277,360	4,480,954
Taxes	2,182,187	3,740,892	3,670,347
Other Expenses and Deductions	195,179	334,592	303,980
Total Expenses	$18,845,315	$32,306,254	$32,815,154
Balance available for Return	$ 3,656,340	$ 6,268,011	$ 6,279,830

We have already considered the claim of defendants that the item for toll revenues should be increased because the division of tolls with the American Company is unfair. This item was accepted by the Commission in the order complained against. The Commission said:

> "The record shows that the 17 cents commission was determined in 1910 from a study made at that time of the cost of performing this service. Since that date the cost of operation and cost of plant has increased, and the record also shows that both the American Company and the Chicago Company have increased their telephone rates to a considerable extent within this period of time. The Commission believes that this matter should be fully investigated and an equitable adjustment made to the end that a greater part of the toll charges be paid to the Illinois Bell Telephone Company. There are not sufficient facts in this record to permit of making a

proper adjustment and in this order the Commission will estimate revenues from such source on the basis now in effect."

Divisions of rates are primarily a matter for the consideration of the Interstate Commerce Commission and the State Commission. We find no valid reason in the record before us for modifying the item of toll revenues.

The deduction on account of licensee revenue paid to the American Company is attacked by defendants on the ground of unfairness of the 4½ per cent contract. That contract provided for a payment of 4½ per cent of plaintiff's gross revenue for rental of telephone instruments and for advice and assistance in engineering, operating, financial and other matters and for the prosecution of experimental and research work in telephony for the benefit of the entire system.

The order of the Public Utilities Commission made December 20, 1920, which fixed the rates charged in 1923 and still in force under the temporary injunction limited the amount to be charged as an operating expense under this contract. The order of the Commission provided that an allowance of $1.13 was reasonable solely for the use of each telephone instrument; that the license to use patented devices, together with engineering, financial and advisory services were of value to the Illinois Company; that the payment made under the license contract then averaged $2.10 per station per annum for the City of Chicago; and that inasmuch as the American Company owned 98 per cent of the stock of the Illinois Company, it was necessary that the underlying contract be given strict scrutiny, notwithstanding the fact that the local Company, as a legal entity, was a free agent. It was further held that the evidence disclosed the unquestioned value of the contract; that, while it was difficult, if not impossible, to evaluate such services, it was to be assumed that the executive officers of the Illinois Company had taken into consideration the probable expense that would have been incurred in making any equally satisfactory alternative arrangement; that a similar payment by the Central Union Telephone Company had been sustained in the Illinois Courts; that the making of the contract was a matter of financial arrangement; that the Commission was not the financial manager of the corporation and could not ignore items charged by the utility as operating expenses unless there was an abuse of dis-

cretion by the corporate officers (citing *Springfield Gas Case,* 291 Ill. 209, 234.) It was there stated:

> "Criticism as to the method of payment, insofar as it is dependent upon a percentage of gross revenues might be sustained owing to the increase in the annual payment when gross revenues are for any reason increased. The particular amounts involved have been approved as items of operating expense in different jurisdictions by nine Commissions within the last three years, however, and the Commission * * * finds that the present annual payment under the license contract, limited to $2.10 per station for the City of Chicago * * * is not excessive and may be allowed as an item of operating expense."

The Commerce Commission in the order complained against, after reciting the facts as to the relationship between the two companies stated that the services rendered under the license contract and the cost thereof should be fully investigated at some time to the end that charges for service may be fully established. The order then provided:

> "The present record does not contain sufficient evidence to warrant the Commission in departing from the findings of the previous Commission * * *. The previous Commission found that payment * * * of $2.10 per station was sufficient to cover the value of the services rendered."

Plaintiff put in force the rates prescribed by the order of December 20, 1920. Those rates may have been non-confiscatory at that time by reason of other findings as to valuation and operating expenses even though the attempt to limit payment under the license contract may have been erroneous. Plaintiff, by accepting those rates did not estop itself from claiming as a proper operating expense, when attacking as confiscatory the subsequent order of the Commerce Commission, the full amount paid under the license contract. (See opinion of this Court denying plaintiff's motion for judgment on the pleadings.)

The amount paid under the license contract was $1,724,251, of which approximately $850,000 represented services and the balance rentals. The record here does not warrant any reduction of the amount found reasonable by both Commissions for rentals. The case for the allowance of the entire amount for services is a strong

one. We have already found that the record does not show an abuse of the power of stock ownership which operates to destroy the corporate identity of plaintiff. The stock ownership is not important beyond requiring close scrutiny of the contract. It is not incumbent on plaintiff to show the cost of the services to the American Company. The test is the nature of the benefits received by plaintiff and whether or not it probably could have secured better terms elsewhere. (*Houston* v. *Southwestern Bell Telephone Co., supra; Missouri ex rel. S. W. Bell Telephone Co., supra; United Fuel Gas Co.* v. *Railroad Commission, supra; Indiana Bell Telephone Co.* v. *Public Service Commission, supra; Northwestern Bell Telephone Co.* v. *Spillman*, 6 Fed. (2nd) 663.)

The reduction which must be made if the finding of the Commission as to the license contract is followed is $360,000. The reduction of operating expenses and consequent increase in amount available for return by that amount cannot possibly change the result, in view of our rulings on other branches of the case.

The position of the City that either the entire $850,000 paid for service under the contract should be rejected or that it should be reduced by an amount larger than that stated by the Commission is untenable on this record. Accordingly, in determining the issue of confiscation, we shall make the allowance of $1,364,000 found reasonable by the Commission for operating expense on account of payments under the license contract.

Defendants urge that the charge of $4,480,954 by plaintiff for expense of depreciation is excessive by $1,800,000 as claimed by the Commission, or $2,200,000 as claimed by the City. That question will be considered in connection with the questions presented as to the valuation of the property. Some other objections are made by the City to expense items but we do not regard any of them as substantial or important.

With the exception of the expense of depreciation, reserved for consideration with valuation questions, and the deduction of $360,000 from the payment under the license contract, plaintiff's statement of revenues and expenses for 1923 is found to be substantially correct.

The findings of the Commission as to valuation and expense of depreciation are as follows:

> "The original cost as of Dec. 31, 1922, of the property used and useful in the rendering of telephone

service in the City of Chicago and exclusive of working capital, material and supplies, work in progress and going value, but including overhead is $90,687,816.

"The reproduction cost new of the property used and useful in the rendering of telephone service in the City of Chicago, exclusive of working capital, material and supplies, work in progress and going value, but including overhead as of Dec. 31, 1922, is $128,769,000.

"The property as it now exists is in at least 90 per cent condition.

"The amount of construction work in progress that will eventually be included in capital account is not more than $4,250,000.

"The amount necessary to provide a sufficient cash working capital and permit of carrying sufficient materials and supplies for the efficient conduct of telephone business in the City of Chicago is $3,000,000.

"The going value of the Chicago property of the Illinois Bell Telephone Company is $4,196,872.

"The Chicago division of the Illinois Bell Telephone Company has a depreciation reserve of $26,000,000, all of which has been contributed by the subscribers of this Company, which sum has been used by the said Company for extensions and additions to its property, and the extensions and additions paid for from such moneys should not be considered in arriving at a base upon which to compute rates for telephone service.

"The fair rate making base for the Chicago property of the Illinois Bell Telephone Company, including physical property, overheads, working capital, going value and work in progress, as hereinabove found is $96,000,000 and is exclusive of the $26,000,000 of money taken by the Company for depreciation reserve and put in plant and equipment.

"A fair allowance to take care of maintenance and retirement charges for said property in use as of December 31, 1922, is $7,869,400, and that sum plus 8½% of all additions and betterments will be sufficient and adequate to permit the Illinois Bell Telephone Company to properly maintain its Chicago property."

Defendants invoke in support of these findings the rule that the burden is on plaintiff in a confiscation case to show legal inadequacy by clear and convincing evidence and that there is a strong presumption in favor of the legal adequacy of the Commission's order. (*United States Fuel Gas Co.* v. *Railroad Commission, supra; Darnell* v. *Edwards*, 244 U. S. 564, 569.)

The exclusion from the rate base of extensions and additions to the amount of $26,000,000 paid for from the depreciation reserve was clearly erroneous. The just compensation safeguarded to the utility by the fourteenth amendment is a reasonable return on the value of the property used at the time it is being used for the public service. Constitutional protection against confiscation does not depend on the source of the money used to purchase the property. It is enough that it is used to render the service. The customers are entitled to demand service and the Company must comply. The Company is entitled to just compensation and, to have the service, the customers must pay for it. The relation between the Company and its customers is not that of partners, agent and principal, or trustee and beneficiary. The revenue paid by the customers for service belongs to the Company. The amount, if any, remaining after paying taxes and operating expenses, including the expenses of depreciation, is the Company's compensation for the use of its property. If there is no return or if the amount is less than a reasonable return the Company must bear the loss. Past losses can not be used to enhance the value of the property or to support a claim that rates for the future are confiscatory. And the law does not require the Company to give up for the benefit of future subscribers any part of the accumulations for past operations. Profits of the past can not be used to sustain confiscatory rates for the future. Customers pay for service, not for the property used to render it. Their payments are not contributions to depreciation or other operating expenses or to the capital of the Company. By paying bills for service they do not acquire any interest, legal or equitable, in the property used for their convenience or in the funds of the Company. Property paid for out of moneys received for service belongs to the Company just as does that purchased out of proceeds of its bonds and stock. (*Board of Public Utili-*

ties Commissioners, et al. v. *New York Telephone Company*, 271 U. S. 23, 31, 32.)

The Commission in defense of its order now asserts that the deduction of $26,000,000 was proper as representing the deduction to be made on account of depreciation in valuing the property, despite the fact the order specifically finds that the property was in 90 per cent condition. But if the basis on which the $26,000,000 was accumulated is the correct basis for measuring depreciation, then the order is clearly erroneous in reducing by $1,800,000 the allowance for expense of depreciation. It is inconceivable on any theory consistent with equity and fair dealing that both acts of the Commission can be right. If, indeed, the unreasonable and arbitrary method of the Commission in handling depreciation and property paid for out of the reserve does not make its order void. (*Northern P. R. Co.* v. *Department of Public Works, supra; Chicago M. and St. P. Ry. Co.* v. *Public Utilities Commission, supra.* Compare *United Fuel Gas Co.* v. *Railroad Commission, supra*), it certainly operates to destroy any presumption which may have existed in its favor.

As to original cost, the Company and the Commission agree that the original cost as of June 30, 1923, was $101,626,014. This is the Commission's finding of cost as of December 31, 1922, plus net additions to June 30, 1923. The City claims that the plant account upon which the Commission made its finding was inflated and that there is no proper basis in the record for determining original cost. A large part of purchases entering into plant account were made from the Western Electric Company. The City has failed to support its contention that exorbitant prices were paid to the Western Electric Company. It appears that the average profit for the last fourteen years of the Western Electric Company on its total business has not been in excess of 7 per cent and never above 10 per cent. The evidence does not support a finding that in the transactions with the Western Electric Company there was an abuse of the discretion of the directors and officers of the Illinois Company which constitutes either a fraud or an injury to the public. Other objections of the City go to the alleged lack of integrity of the plant account through failure to credit retirements, the method by which retirement costs were determined and the method of handling

reused material. Those objections are not sustained by the record and are without substantial merit. The record shows orginal cost as of June 30, 1923, to be $101,626,014.

As to reproduction cost, the Commission found the reproduction cost new, exclusive of working capital, materials and supplies, work in progress and going value, but including overheads, as of December 31, 1922, was $128,769,000. There is no rational basis in the record for that finding unless there is added $8,292,869, the amount of the net additions for the year 1922, which was obviously overlooked by the Commission in making its finding. There should also be added the net additions from January 1, 1923, to June 30, 1923, amounting to $9,938,198. This makes the reproduction cost new as of June 30, 1923, approximately $147,000,000. The evidence of the Company is that the reproduction cost new of the property as of June 30, 1923, was $145,248,344. The City, dissenting again from the findings of its co-defendant, the Commission, has devoted a large part of its evidence to objections to the method by which the Company's claim of value was established.

No field inventory or appraisal was made. The property of the Company had been appraised in 1911 and this appraisal was taken as the starting point. Factors were applied to this appraisal and the net additions thereto representing the actual increases, respectively, of the prices of labor and material entering into the construction of the property from year to year to June 30, 1923. It is claimed by plaintiff that the cost of reproducing the property new as of June 30, 1923, would be at least the amount determined by the appraisal made as above stated. Stress is placed upon the well known facts concerning increase in labor and material costs during and after the world war of which the court will take notice, and the increasing difficulties of construction which would have been met by a reproduction of the entire property under conditions existing in Chicago in 1923. Assuming the correctness of the 1911 inventory and appraisal and the accuracy of the Company's books and conversion factors, we see no reason why the appraisal of June 30, 1923, does not furnish a reasonably accurate basis for determining a minimum reproduction cost. The same method of appraisal based upon actual construction costs of the Company was used in

its proceedings before the Public Utilities Commission and before the Illinois Commerce Commission, both of which Commissions determined the reproduction cost new of the Company's property on the basis of these appraisals.

The testimony of the plaintiff's engineers and accountants satisfies us that the computations are based upon data which are substantially correct. It has not been met, in our opinion, by the criticism of the expert witnesses produced by the defendants. Those criticisms are weakened by the conflicting statements of the witnesses and the contradictions found in correspondence and testimony in other cases. While under some circumstances this method might not be a reliable guide to true reproduction costs, we think that for this plant and with this Company's books and supporting data it shows clearly that the reproduction cost new of the physical property as of June 30, 1923, was at least $145,000,000.

Plaintiff asserts that the allowance by the Commission of $4,196,067, for going value is inadequate. This was the amount found by the Public Utilities Commission in arriving at its minimum value of the Company's property in 1919—about 4% of the reproduction cost. If the same percentage is applied to the reproduction cost in 1923, the allowance for going value is increased to $5,800,000. The Commission in determining going value rejected from consideration items aggregating more than five million dollars on the ground that they had been charged to operating expense and the Company reimbursed therefor. The method followed by the Commission is questioned by plaintiff. (*Lincoln Gas and Electric Company* v. *City of Lincoln*, 250 U. S. 256; *Board of Public Utility Commissioners* v. *New York Telephone Company*, 271 U. S. 23.)

The City's claim that there should be no allowance for going value cannot be sustained on the record in this case. (*McCardle* v. *Indianapolis Water Co.*, 272 U. S. 400, 414; *Des Moines Gas Co.* v. *Des Moines*, 238 U. S. 153, 165; *Denver* v. *Denver Union Water Co.*, 246 U. S. 178, 191.) It is not necessary in determining the issue of confiscation here to do more than to find that $4,196,067, the amount allowed by the Commission, is the minimum allowance which can be made for going value.

As to the deduction for depreciation in the valuation of the property, only two possible bases are found in the record. The one is the contention of the Company, sup-

ported by the evidence and the finding of the Commission, that the property is in 90% condition. This results in a deduction of $14,500,000, making the reproduction cost new, less depreciation, $130,500,000. The other basis is to accept the claim of the defendants that $26,000,000, the entire amount of the property paid for from the depreciation reserve and eliminated by the Commission from its valuation of the property should be deducted. This makes the reproduction cost new, less depreciation, $119,000,000.

If the first basis for estimating depreciation is accepted we have the following elements to which consideration must be given in determining the rate base: Original Cost $101,600,000; Reproduction Cost new of physical property, less depreciation $130,500,000; Working Capital $3,000,000; Going Value $4,200,000.

The valuation of $96,000,000 found by the Commission, as of December 31, 1922, or $106,000,000 as of June 30, 1923, if the net additions from January 1, 1923, to June 30, 1923, are added is clearly insufficient, and shows that proper consideration was not given to the element of reproduction cost new. (*St. Louis and O'Fallon R. Co.* v. *U. S.*, 279 U. S. 461, 484; *McCardle* v. *Indianapolis Water Co.*, 272 U. S. 400, 410, 411; *Bluefield Waterworks and Improvement Co.* v. *Public Service Commission*, 262 U. S. 679, 691, 692; *Missouri ex rel. Southwestern Bell Telephone Co.* v. *Public Service Commission, supra.*)

Certainly a valuation of less than $125,000,000 (estimating the depreciation at 10%) would amount to confiscation. The amount available for return in 1923 under the rates in force, on the Company's showing, was $6,280,000. If to this is added $360,000 deduction from the payment under the license contract and $1,800,000, the Commission's deduction from allowance for the expense of depreciation, there would be available for return $8,440,000. The reduction for an entire year under the rates established by the Commission would have been $1,700,000, leaving $6,740,000 available for return. This is a return of less than 5½% and clearly confiscatory under conditions existing in 1923 (*McCardle* v. *Indianapolis Water Co., supra*, 419 and cases cited in Note 4; *United Railways and Electric Co.* v. *West*, decided by U. S. Supreme Court, January 6, 1930.)

If the entire $26,000,000 is deducted for depreciation there would be a corresponding reduction in the rate

base to $113,500,000. But the Company is not to be subjected to an arbitrary rule by which it is charged with the full depreciation reserve in valuing its property and denied the benefit of making the yearly charge entering into that reserve as an expense of depreciation. On that basis the deduction of $1,800,000 from the expense of depreciation is unwarranted, and the amount available for return under the rates fixed by the Commission would be $4,940,000. This is a return of less than 4½%.

We are not to be understood as approving the deduction of $360,000 from the payment under the license contract or that of $1,800,000 from the expense of depreciation, or of holding that the evidence does not warrant a higher valuation than $125,000,000. We have not undertaken to decide disputed questions where it is apparent that in the view most favorable to the defendants, the return to the Company would still be inadequate. (*Denver* v. *Denver Union Water Co.*, 246 U. S. 178, 194.)

The defendants assert that the plaintiff does not come into equity with clean hands. The record does not sustain the accusations made in support of that charge.

The order was made in 1923. Since that time the Commission has taken no steps to examine the matters reserved in the order for further consideration or to determine a rate base by a method which is not, on its face, unreasonable and arbitrary. The defendants have sought repeated delays and attempt to take advantage of them by projecting the effect of the order of 1923 to a time when changed conditions require another investigation by the Commission, if new rates are to be established. The finding of confiscation in 1923 applies with increasing force to the succeeding years. Considering the attitude of the defendants as to the trial of the case and the effect of a decree for the defendants, a Court of Equity will scrutinize this record with great care before making an order which will require the plaintiff to refund more than eleven million dollars.

The case, however, does not appear to us to be a doubtful one, even on assumptions as favorable to the defendants as it is reasonably possible to make, and the temporary injunction is made permanent.

EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON,
Judges U. S. District Court,
Northern District of Illinois.

FINAL DECREE ENTERED FEBRUARY 28, 1930.

This cause came on to be further heard at a term of this Court and was argued by counsel, and thereupon, upon consideration thereof, and the Court having filed a formal opinion containing specific findings of fact, it is

ORDERED, ADJUDGED AND DECREED as follows:

1. That the rates prescribed by Illinois Commerce Commission in its order of August 16, 1923, are confiscatory and deprive plaintiff of its property without due process of law and deny plaintiff the equal protection of the laws in violation of its rights under the Constitution of the United States. That said order was therefore null and void and plaintiff never had any adequate remedy at law in the premises.

2. That the defendants, Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, William Burkhardt, Edward H. Wright and William J. Smith, the persons constituting the Illinois Commerce Commission of the State of Illinois, and Oscar E. Carlstrom, Attorney-General of the State of Illinois, and their respective successors in office, and the City of Chicago, a municipal corporation, be, and they are hereby, severally and permanently enjoined and restrained from attempting to compel plaintiff, its officers, agents, or employees, hereafter to observe or enforce the rates, charges and rentals for telephone service prescribed by the order of the Illinois Commerce Commission, dated August 16, 1923, and attached to the Bill of Complaint herein as Exhibit "A."

3. That the said defendants and their respective successors in office and all other persons be, and they are hereby, severally and permanently enjoined and restrained from taking any steps or proceedings against the plaintiff, its officers, agents, or employees, to enforce any penalties or any remedy against the plaintiff for disregarding the rates prescribed by the said order of the Illinois Commerce Commission, dated August 16, 1923, and from taking any such steps or proceedings against the plaintiff, its officers, agents, or employees, to enforce any penalties or any other remedy against the plaintiff for charging rates in excess of the rates prescribed in said order of the Illinois Commerce Commission, dated August 16, 1923.

4. That all sums of money collected by the plaintiff under the terms of the preliminary and interlocutory decrees entered herein, in excess of the sums which would have been collected under the rates prescribed by said Illinois Commerce Commission, are the property and funds of the plaintiff and belong to it, and plaintiff is released from all obligation to refund to its subscribers any sums of money collected by it under the terms of the preliminary and interlocutory decrees herein.

5. That the plaintiff is hereby released and discharged from any and all liability on account of the certain bond, in the penal sum of one million dollars, executed by said plaintiff and filed with this Court pursuant to the terms of the temporary injunction entered herein on December 21, 1923.

6. That plaintiff shall recover its taxable costs and disbursements of the defendants and intervenor-defendant.

Dated at Chicago, Illinois, February 28, 1930.

EVAN A. EVANS,
GEORGE T. PAGE,
Circuit Judges
JAMES H. WILKERSON,
District Judge

MOTION OF PLAINTIFF FOR FINDING OF FACTS.

Now comes Illinois Bell Telephone Company, plaintiff in the above entitled cause, and by its counsel moves the Court to enter the following findings of fact:

1. That the American Telephone and Telegraph Company, which owns a majority of the stock of plaintiff, has not so dominated and controlled the officers and directors of plaintiff with the result that they exercise no will of their own and that plaintiff is reduced to a mere agency or instrumentality of the American Telephone and Telegraph Company.

2. That Illinois Bell Telephone Company is the proper party plaintiff and American Telephone and Telegraph Company is not a necessary party to the proceedings.

3. That the method used by plaintiff in separating its interstate property is reasonable and is approved.

4. That the evidence does not disclose any abuse of discretion or fraud in connection with the division of interstate tolls between American Telephone and Telegraph Company and plaintiff, and the method used by plaintiff is approved.

5. That finding Number 8 of the Illinois Commerce Commission in its order of August 16, 1923, which said finding reads as follows:

> "That the Chicago division of the Illinois Bell Telephone Company has a depreciation reserve of $26,000,000, all of which has been contributed by the subscribers of this company, which sum has been used by the said company for extensions and additions to its property, and that the extensions and additions paid for from such moneys should not be considered in arriving at a base upon which to compute rates for telephone service";

was an error of law.

6. That the evidence does not show an abuse of discretion of the directors of plaintiff in entering into the contract with the Western Electric Company, Inc., for the purchase of materials and supplies, and the terms of that contract are fair and reasonable.

7. That the reproduction cost new of the physical property of plaintiff used and useful in rendering telephone service in Chicago as of June 30, 1923 (excluding working capital, materials and supplies, work in progress and not including going value) was at least $145,000,000.

8. That the original cost of said physical property (excluding working capital, materials and supplies, work in progress and not including going value, but including $5,000,000 for undistributed construction costs or overheads), as of the same date, was $101,600,000, as shown by the books and records of plaintiff.

9. That the reproduction cost new, less depreciation, of said physical property (excluding working capital, materials and supplies, work in progress and not including going value), as of the same date was at least $130,500,000.

10. That the fair value of all property of plaintiff used and useful in rendering telephone service in Chicago on said date was at least $125,000,000.

11. That the rates prescribed by said Illinois Commerce Commission in its order of August 16, 1923, would not, if made effective then or at any time thereafter, have paid the plaintiff's necessary operating expenses and left available for return a fair return upon the fair value of plaintiff's property used and useful in rendering telephone service in its Chicago exchange.

ILLINOIS BELL TELEPHONE COMPANY,
(Signed) By W. D. BANGS,
Its Counsel.

Dated at Chicago, Illinois, February 28, 1930.

Denied on the ground that the Court has filed an opinion embodying the findings of fact.

To which plaintiff by its counsel excepts.

(Signed) EVAN A. EVANS,
(Signed) GEORGE T. PAGE,
Circuit Judges.
(Signed) JAMES H. WILKERSON,
District Judge.

PETITION FOR APPEAL.
Filed Feb. 28, 1930.

To the Honorable Evan A. Evans and George T. Page, Circuit Judges for the Northern District of Illinois, and the Honorable James H. Wilkerson, District Judge for said district, constituting a special statutory court under the provisions of Section 266 of the Judicial Code:

Now come Frank L. Smith, Cicero J. Lindly, Hal W. Trovillion, P. H. Moynihan, William Burkhardt, Edward H. Wright and William J. Smith, constituting the Illinois Commerce Commission of the State of Illinois; Oscar E. Carlstrom, Attorney General of the State of Illinois, and the City of Chicago, a municipal corporation, defendants in the above entitled cause, and feeling themselves aggrieved by the final decree of said Court entered in said cause on the 28th day of February, 1930, granting a permanent injunction herein and other relief, as appears from said decree, do hereby jointly and severally appeal from the said decree so entered in said cause on the 28th day of February, 1930, to the Supreme Court of the United States for the reasons set forth in the Assignment of Errors filed herewith.

Your petitioners pray that their appeal be allowed from the said final decree to the Supreme Court of the United States and that a citation be issued, as provided by law, and that transcripts of the records, proceedings and documents upon which said decree was based, duly authenticated, be sent to the Supreme Court of the United States under the rules of said Court in such cases made and provided, and that the decree of said Statutory Court entered in the United States District Court for the Northern District of Illinois may be reversed and such order made as to the said Supreme Court of the United States may seem meet and just.

As your petitioners further pray that pending the said appeal the plaintiff shall be required to keep such records and accounts as shall enable it, in case said final decree is reversed,

to make refund to its several subscribers of any sums paid by them in excess of the sums chargeable to them which would have been collected under the rates prescribed by the Illinois Commerce Commission under its order dated August 16, 1923, and permanently enjoined by this Court, as the Court may direct.

Your petitioners further pray that an order be entered herein by this Court dispensing with an appeal bond or other security as a condition for the allowance or perfection of said appeal.

Dated, Chicago, Illinois, February 28, 1930.

P. H. MOYNIHAN,
FRANK L. SMITH,
CICERO J. LINDLY,
HAL W. TROVILLION,
WILLIAM BURKHARDT,
EDWARD H. WRIGHT,
WILLIAM J. SMITH,
Constituting the Illinois Commerce Commission.
OSCAR E. CARLSTROM,
Attorney General of the State of Illinois.
CITY OF CHICAGO,
Intervenor,
By SAMUEL A. ETTELSON,
Corporation Counsel.
and
GEORGE I. HAIGHT,
BENJAMIN F. GOLDSTEIN,
Special Counsel.

ASSIGNMENT OF ERRORS.
Filed February 28, 1930.

Now come Frank L. Smith, Cicero J. Lindly, Hal W. Trovillon, P. H. Moynihan, William Burkhardt, Edward H. Wright and William J. Smith, constituting the Illinois Commerce Commission of the State of Illinois, Oscar E. Carlstrom, Attorney General of the State of Illinois, and the City of Chicago, a municipal corporation, defendants in the above entitled cause, by their solicitors, and in connection with their petition for appeal in the above entitled cause now filed herein, make and file this their assignment of errors setting forth the several errors upon which they rely in the prosecution of the appeal in said cause from the final decree entered

in this court in said case on the 28 day of February, 1930, and the above named defendants-appellants state that in the record and proceedings, and in the entering of said final decree aforesaid manifest error has intervened to the prejudice of the said defendants-appellants, to-wit:

1. The court erred in failing to find and to give effect to the fact that the American Telephone & Telegraph Company, as part of its own long distance service, shared, free of charge, the use of more than $55,000,000 book cost of plaintiff's local exchange property and shared, free of charge, the use of more than $18,000,000 items of expense incurred by the plaintiff in connection therewith.

2. The court erred in failing to find and to give effect to the fact that the compensation paid to the plaintiff under the rental arrangement made in 1911 for the use of plaintiff's toll trunks was unfair and resulted in losses to the plaintiff.

3. The court erred in failing to find and to give effect to the fact that the arbitrary payment made to the plaintiff by the American Telephone & Telegraph Company for collecting, billing and settling the accounts of the American Telephone & Telegraph Company's long distance service on the basis adopted prior to 1910 was unfair and resulted in losses to the plaintiff.

4. The court erred in failing to find and to give effect to the fact that the rental paid to the plaintiff for the exclusive use of its long lines property by the American Telephone & Telegraph Company in the latter's long distance service under arrangements made prior to 1915 were unfair and resulted in losses to plaintiff.

5. The court erred in failing to find and to give effect to the fact that plaintiff was entitled to receive, but in fact did not receive, "a reasonable and suitable division of the tolls and profits" of the long distance business of the American Telephone & Telegraph Company transacted in the Chicago Exchange under Section 10 of the original license contract of December 23, 1881.

6. The court erred in failing to find and to give effect to the fact that the arrangement between the plaintiff and the American Telephone & Telegraph Company, and the payment for the use of plaintiff's property and facilities in the long distance service of the American Telephone & Telegraph Company were unfair and resulted in losses to the plaintiff, which, if added to the admitted net earnings of the plaintiff, would result in an adequate legal return on its property.

7. The court erred in failing to find and to give effect to

the fact that the American Telephone & Telegraph Company diverted $6,000,000 from the revenue of the plaintiff in violation of orders of the Illinois Commerce Commission.

8. The court erred in failing to find and to give effect to the fact that the American Telephone & Telegraph Company made extensive use of the employees of the plaintiff to sell the stock of the American Telephone & Telegraph Company to the public and charge the cost thereof to the plaintiff.

9. The court erred in failing to find that the amount paid to the American Telephone & Telegraph Company by the plaintiff for rental of instruments was unfair to the plaintiff.

10. The court erred in failing to find and to give effect to the fact that the plaintiff paid the American Telephone & Telegraph Company exorbitant, duplicated and discriminatory fees for alleged services and assistance.

11. The court erred in failing to find and to give effect to the fact that the plaintiff was making duplicate payments to the American Telephone & Telegraph Company for the use of patents on telephones and apparatus.

12. The court erred in failing to find that the 1919 memorandum providing for the rendering of and payment for alleged services of the American Telephone & Telegraph Company was void in that it violated the Public Utilities Act of Illinois and the Uniform System of Accounts prescribed by it.

13. The court erred in failing to find and to give effect to the fact that the American Telephone & Telegraph Company received special benefits from the plaintiff through filing consolidated Federal Income Tax Returns and charging the plaintiff on the basis of a separate return.

14. The court erred in failing to find and to give effect to the fact that the plaintiff rendered special financial services to the American Telephone & Telegraph Company without charge.

15. The court erred in failing to find and to give effect to the fact that the American Telephone & Telegraph Company apportioned to the plaintiff exorbitant charges for the equipment sold by the Western Electric Company.

16. The court erred in failing to find that the admitted net return of the plaintiff was legally adequate upon the standards of the average return of the Bell Telephone Companies throughout the Bell System.

17. The court erred in failing to find that the admitted net return to the plaintiff was legally adequate according to the tests for adequate returns used by the Bell Telephone Companies throughout the entire Bell System as a basis for financing their respective operations.

18. The court erred in failing to find that the American Telephone & Telegraph Company destroyed the possibility of determining from the records of the plaintiff before this court the revenues and operating expenses of the plaintiff.

19. The court erred in failing to find and to give effect to the fact that part of the net earnings of plaintiff available for return upon the fair value of plaintiff's property used and useful in rendering telephone service in its Chicago Exchange is in the possession of the American Telephone & Telegraph Company—the record of which is not before this court.

20. The court erred in failing to find that the American Telephone & Telegraph Company destroyed the allegiance of the employees of the plaintiff and transferred their allegiance to the American Telephone & Telegraph Company through the sale of stock to such employees and through the operations of the Employees' Benefit Plan.

21. The court erred in failing to find that the American Telephone & Telegraph Company usurped the public utility functions of the plaintiff and reduced it to a mere agency and instrumentality of its own business.

22. The court erred in failing to find that the American Telephone & Telegraph Company, in the operation of the public utility functions of the plaintiff, apportioned unlawfully the costs of the services rendered by it to the plaintiff on a contract basis.

23. The court erred in failing to find that the American Telephone & Telegraph Company destroyed the Going Value of the plaintiff as a business enterprise.

24. The court erred in failing to find and to give effect to the fact that plaintiff's figures of expenses for each year since 1921 included in its charges for depreciation for such years, charges admittedly in violation of the Order of the Public Utilities Commission of Illinois entered December 20, 1920.

25. The court erred in finding that proper consideration was not given by the Illinois Commerce Commission to the element of reproduction cost new in that the court used as a basis for its finding the net valuation found by the Illinois Commerce Commission *after* deducting the amount of depreciation.

26. The court erred in finding that because the Illinois Commerce Commission sought to enforce prescribed rates for service by the plaintiff as a corporate entity, the City of Chicago is estopped to show before this court that the American

Telephone & Telegraph Company had reduced the plaintiff to an agency or instrumentality of the business of the American Telephone & Telegraph Company during the period under inquiry by the court.

27. The court erred in finding that the act of the plaintiff in leasing its property to the American Telephone & Telegraph Company for use in the latter's long distance service, and the act of receiving rental by the plaintiff for the use of such property from the American Telephone & Telegraph Company were acts of interstate commerce over which this court had no jurisdiction.

28. The court erred in finding that the sum of $26,000,000 represented by the Reserve for Depreciation was not admissible as evidence of the amount of depreciation in the value of the property of the plaintiff.

29. The court erred in finding that the sum of $26,000,000 represented by the Reserve for Depreciation could not legally be deducted from the valuation of the plaintiff's property used as a rate base.

30. The court erred in not dismissing the plaintiff's bill of complaint for want of equity.

31. The court erred in entering the final decree of February 28, 1930.

32. The court erred in not dismissing the plaintiff's bill of complaint because the plaintiff had an adequate remedy at law.

33. The court erred in holding that the plant account was not inflated.

34. The court erred in holding that the appraisal as of June 30, 1923, was a reasonably accurate basis for determining Reproduction Cost new of the physical property of the plaintiff used and useful in rendering telephone service in Chicago as of June 30, 1923.

35. The court erred in holding that an interstate toll separation of plaintiff's property could not affect the result in the case.

36. The court erred in using as the measure of use of the property and facilities of the plaintiff in the long distance service of the American Telephone & Telegraph Company, the number of calls in that service originating in the Chicago Exchange without reference to the use of property or operating labor per call.

37. The court erred in finding any proper evidence upon which to base a finding of a fair value of the property of the

plaintiff used and useful in rendering telephone service in Chicago as of June 30, 1923.

38. The court erred in failing to find that the rate of return upon the plaintiff's property used and useful in rendering telephone service in Chicago was legally adequate.

39. The court erred in finding the rate of return upon plaintiff's property used and useful in rendering telephone service in Chicago confiscatory.

40. The court erred in failing to dismiss the plaintiff's bill of complaint for want of equity because of its violation of the Order of the Public Utilities Commission of Illinois entered December 20, 1920.

41. The court erred in finding that the fair value of all property of plaintiff used and useful in rendering telephone service in Chicago on June 30, 1923 (after deducting 10% depreciation) was at least $125,000,000.

42. The court erred in holding that the Reproduction Cost new of the physical property of the plaintiff used and useful in rendering telephone service in Chicago as of June 30, 1923 (excluding working capital, materials and supplies, work in progress, and not including going value), was at least $145,000,000.

43. The court erred in finding that the Reproduction Cost new, less depreciation of the physical property of plaintiff used and useful in rendering telephone service in Chicago (excluding working capital, materials and supplies, work in progress and not including going value), as of June 30, 1923, was at least $130,500,000.

44. The court erred in finding that the original cost of said physical property (excluding working capital, materials and supplies, work in progress and not including going value, but including $5,000,000 of omitted overheads), as of June 30, 1923, was $101,600,000, as shown by the books and records of plaintiff.

45. The court erred in making an allowance for Going Value.

46. The court erred in decreeing that all sums of money collected by the plaintiff under the terms of the preliminary and interlocutory decrees entered, respectively, September 27, 1923, and December 21, 1923, in excess of the sums which would have been collected under the rates prescribed by the Order of the Illinois Commerce Commission dated August 16, 1923, are the property and funds of the plaintiff and belong to it, and that plaintiff is released from all obligation to refund to its subscribers any sums of money collected by it

under the terms of the said preliminary and interlocutory decrees.

47. The court erred in finding that the plaintiff is released and discharged from any and all liability on account of the certain bond, in the penal sum of One Million Dollars, executed by the plaintiff and filed with this court pursuant to the terms of the temporary injunction entered in said cause on December 21, 1923.

48. The court erred in finding that plaintiff shall recover its taxable costs and disbursements of the defendants and intervenor-defendant.

49. The court erred in decreeing that the rates prescribed by Illinois Commerce Commission in its order of August 16, 1923, are confiscatory and deprive plaintiff of its property without due process of law and deny plaintiff the equal protection of the laws in violation of its rights under the Constitution of the United States. That said order was therefore null and void and plaintiff never had any adequate remedy at law in the premises.

50. The Court erred in holding that the plaintiff was relieved in the case at bar from the burden of proof imposed upon it by law because of the facts that the defendants did not avail themselves of the Court's offer of an immediate trial on the merits at the time that the preliminary injunction was granted on December 21, 1923, but elected to appeal on January 18, 1924, to the Supreme Court from the Order granting the temporary injunction, which Order was affirmed by the Supreme Court on October 19, 1925; that thereafter the plaintiff filed a motion for a judgment on the pleadings on November 27, 1926, which motion was denied by the court on July 11, 1927; that thereafter on the 20th day of February, 1929, there was a peremptory setting of the cause for trial on April 15, 1929; that prior to the 20th day of February, 1929, "postponements were sought repeatedly by the city on the ground of change of counsel, lack of preparation and inability to procure money with which to employ experts."

51. The court erred in holding that the American Telephone & Telegraph Company did not so dominate and control the plaintiff company as to reduce the plaintiff company to a mere agency or instrumentality of the American Telephone & Telegraph Company.

52. The court erred in holding that the method used by the plaintiff in separating its interstate property is reasonable.

53. The court erred in holding that the evidence does not disclose any abuse of discretion or fraud in connection with

the division of interstate tolls between the American Telephone & Telegraph Company and the plaintiff.

54. The court erred in decreeing that the defendants, the persons constituting the Illinois Commerce Commission of the State of Illinois, the Attorney General of the State of Illinois and their respective successors in office, and the City of Chicago, intervenor-defendant, be severally and permanently enjoined and restrained from attempting to compel plaintiff, its officers, agents or employees hereafter to observe or enforce the rates, charges and rentals for telephone service prescribed by the order of the Illinois Commerce Commission, dated August 16, 1923, and attached to the Bill of Complaint as Exhibit "A".

55. The court erred in decreeing that the defendants, the persons constituting the Illinois Commerce Commission of the State of Illinois, the Attorney General of the State of Illinois and their respective successors in office, and the City of Chicago, intervenor-defendant, be severally and permanently enjoined and restrained from taking any steps or proceeding against the plaintiff, its officers, agents or employees, to enforce any penalties or any remedy against the plaintiff for disregarding the rates prescribed by the order of the Illinois Commerce Commission, dated August 16, 1923, and from taking any such steps or proceedings against the plaintiff, its officers, agents, or employees, to enforce any penalties or any other remedy against the plaintiff for charging rates in excess of the rates prescribed in said order of the Illinois Commerce Commission, dated August 16, 1923.

56. The court erred in failing to find that the expense of depreciation for the year 1923 was excessive by $2,200,000.

57. The court erred in finding that in the transactions with the Western Electric Company there was no abuse of discretion of the directors and officers of the plaintiff which constitute either fraud or injury to the public.

58. The court erred in deducting from the valuation of the property of plaintiff a depreciation of 10%.

59. The court erred in refusing to hold that the plaintiff was in a court of equity with unclean hands.

60. The court erred in finding that the legal inadequacy of rates amounting to confiscation in 1923 applied with increasing force to the succeeding years.

61. The court erred in finding that the defendants sought delays and attempted to take advantage of them by projecting the effect of the Order of 1923 to a time when changed condi-

tions required another investigation by the Commission, if new rates were to be established.

62. The court erred in finding that the amount available to plaintiff for return on its property used and useful in rendering the telephone service in Chicago in 1923 was $6,740,000, or less than 5½%.

63. The court erred in refusing to admit in evidence or to consider City of Chicago's Exhibit No. 78, being a Temporary Injunction entered on February 8, 1913, by Judge Dever in the case of *Read, et al.* v. *Central Union Telephone Co., et al.*, in the Superior Court of Cook County, Illinois, in which said Temporary Injunction the defendants, Chicago Telephone Company and the American Telephone & Telegraph Company were enjoined, among other things, from seeking to enforce an indebtedness of $32,727,000 alleged in the bill of complaint as claimed by the American Telephone & Telegraph Company and the Chicago Telephone Company to be owing to them from the Central Union Telephone Company, and from transferring, assigning and pledging, or in any way disposing of, any demand notes made by the Central Union Telephone Company and held by them to represent said indebtedness.

64. The court erred in refusing to admit in evidence or to consider City of Chicago's Exhibits 157, 157-A, 157-B, 157-C, 157-D, 157-E, 157-F, 157-G, 157-H, 157-I and 157-J, all of which said exhibits contain facts relating to the same transaction, to-wit: the sale of the Illinois property of the Central Union Telephone Company to plaintiff, which facts are: That in 1913 there was owing to the American Telephone & Telegraph Company, from the Central Union Telephone Company $34,303,000 (157-E), which indebtedness increased by December 31, 1919, to $56,117,000 (157-J); that between 1913 and April 15, 1919, the Central Union Telephone Company was in receivership (157 and 157-B); that during this period it operated at a loss (157); that in 1914 it had outstanding $5,450,000 capital stock against which there was an impairment of capital account in the mount of $4,600,000; that by April 30, 1919, the impairment of this capital account had increased to $11,900,000, and by December 31, 1919, to $13,990,000; that of this capital stock, the American Telephone & Telegraph Company owned $5,400,000 of capital stock which had been wiped out (157-A); that during the year 1920 the properties of the Central Union Telephone Company were divided up and transferred to the plaintiff, to the Ohio Bell Telephone Company and to the Indiana Bell Telephone Company, all three of which companies were subsidiary companies of the Bell Sys-

tem and in all of which companies the American Telephone & Telegraph Company owned practically all of the stock (157-F, 157-G and 157-H); that the proceeds of these three sales were used to pay off the entire indebtedness to the American Telephone & Telegraph Company in the amount of $60,472,000 (157-J) and also wiped out the losses of the Central Union Telephone Company and left it with assets sufficient to cover its entire capital stock at $100 a share, and created a surplus of $1,360,000 (157-I); and that the sale to the plaintiff resulted in a reduction in the corporate deficit of the Central Union Telephone Company in the amount of $3,700,000 (157-H), and liquidated $15,500,000 of indebtedness.

P. H. Moynihan,
Frank L. Smith,
Cicero J. Lindly,
Hal W. Trovillion,
William Burkhardt,
Edward H. Wright,
William J. Smith,
Constituting the Illinois Commerce Commission.
Oscar E. Carlstrom,
Attorney General of the State of Illinois.
City of Chicago, *Interrenor.*
By Samuel A. Ettelson,
Corporation Counsel.
and
George I. Haight,
Benjamin F. Goldstein,
Special Counsel.

Order Allowing Appeal.

This day came the defendants and presented to the court their petition for appeal and assignment of errors, and moved the court for the allowance of an appeal to the Supreme Court of the United States from the final decree entered herein on February 28, 1930, and upon consideration thereof, it is hereby

Ordered and adjudged by the court that leave is hereby given to file their petition and assignment of errors and that said appeal be and the same is hereby allowed from the said decree entered February 28, 1930, in the above entitled and numbered cause, and that said appeal shall be returnable to the Supreme Court of the United States, and that pursuant to stipulation between the parties hereto waiving appeal bond or other security, it is ordered that no appeal bond or other

security be required by the said defendants, as a condition for the allowance or perfection of this appeal.

IT IS FURTHER ORDERED that pending the said appeal the plaintiff shall be required to keep such records and accounts as shall enable it, in case said final decree is reversed, to make refund to its several subscribers of any sums paid by them in excess of the sums chargeable to them which would have been collected under the rates prescribed by the Illinois Commerce Commission under its order dated August 16, 1923, and permanently enjoined by this court, as the court may direct.

Enter:

EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON,
Judges.

ORDER EXTENDING TIME.

The parties in the above entitled cause appearing here in open court by their respective solicitors, and for satisfactory reasons appearing to the court, the time for filing the transcript of record in this cause in the Supreme Court of the United States, pursuant to the appeal sued out, is hereby extended until and including the 31st day of May, A. D. 1930.

Enter:

EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON,
Judges.

ORDER INCORPORATING TESTIMONY AND EXHIBITS IN TRANSCRIPT OF RECORD.

This cause came on at this term, and upon stipulation of the parties hereto, and upon due consideration, and it appearing to the court that the testimony of witnesses has been reduced to narrative form and printed, and the various documentary evidence and exhibits (excepting plaintiff's exhibits) have been printed and bound into volumes for use on the hearing of this cause, and it appearing to the court that the said plaintiff's exhibits are to be printed and bound into volumes the same as the other evidence herein.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED, that the said volumes already printed, and those to be printed, as aforesaid, shall be treated and accepted in all respects the

same as the original documents, exhibits or testimony taken in this cause.

Enter:

EVAN A. EVANS,
GEORGE T. PAGE,
JAMES H. WILKERSON,
Judges.

STIPULATION FOR TRANSCRIPT OF RECORD.

It is hereby stipulated and agreed by and between the parties hereto, by their respective counsel, that the following portions of the record shall constitute the Transcript of Record on appeal to the Supreme Court of the United States, the same as if directed by a præcipe for record, and the clerk may certify the said Transcript of Record by attaching his certificate to the separate printed volumes thereof, and the issuance and service of a citation is hereby waived.

1. Placita.
2. Bill of Complaint.
3. Petition of City of Chicago for leave to intervene, filed September 27, 1923.
4. Order of September 27, 1923, making City of Chicago a party defendant, and giving the City of Chicago the right to plead.
5. Order of September 27, 1923, restraining the Illinois Commerce Commission from putting new rates into effect pending the hearing.
6. Answer of City of Chicago filed October 6, 1923, including Exhibits A and B attached thereto.
7. Answer of Frank L. Smith, *et al.*, filed October 6, 1923.
8. Motion of complainant for interlocutory injunction.
9. Interlocutory injunction decree entered December 21, 1923.
10. Order of January 10, 1924, substituting certain parties defendant.
11. Order allowing appeal from interlocutory injunction.
12. Mandate from Supreme Court filed December 7, 1925, affirming interlocutory decree.
13. Order of January 26, 1927, requiring plaintiff to keep records of amounts due.
14. Motion of plaintiff for judgment on the pleadings entered November 26, 1926.
15. Order of July 11, 1927, denying plaintiff's motion for judgment on the pleadings and opinion of the court.

16. Testimony of all parties in narrative form as contained in three printed volumes.
17. Exhibits of all parties, including exhibits rejected by order of court, in five printed volumes.
18. Opinion of the court filed January 31, 1930.
19. Final decree entered February 28, 1930.
20. Motion of plaintiff for finding of facts and order denying the same.
21. Petition for appeal.
22. Assignment of errors.
23. Order allowing appeal and dispensing with bond.
24. Order extending time for filing Transript of Record.
25. Order providing for incorporating printed testimony and exhibits in the Transcript.
26. Stipulation as to Transcript of Record.

H. K. TENNEY
W. D. BANGS
Counsel for Plaintiff.

BENJAMIN F. GOLDSTEIN
OSCAR E. CARLSTROM
GEORGE I. HAIGHT
SAMUEL A. ETTELSON
Counsel for Defendants.

Dated at Chicago, Ill., April 8, 1930.

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS,

EASTERN DIVISION.

ILLINOIS BELL TELEPHONE COMPANY, Plaintiff, vs. **P. H. MOYNIHAN, HAL W. TROVILLION, WILLIAM J. SMITH, ALEX J. JOHNSON, J. PAUL KUHN, JAMES R. CLARK and DAN JACKSON,** the Persons Constituting the Illinois Commerce Commission of the State of Illinois, and **OSCAR E. CARLSTROM,** Attorney-General of the State of Illinois, Defendants, and **CITY OF CHICAGO,** a Municipal Corporation, Intervener.	**In Equity No. 3746.**

EXHIBITS OF ILLINOIS COMMERCE COMMISSION
VOLUME I
(Exhibits Nos. 1 to 40)

OSCAR E. CARLSTROM,
Attorney General of Illinois,
Attorney for Illinois Commerce Commission.

WM. C. CLAUSEN,
Assistant Attorney General,
Of Counsel.

BARNARD & MILLER PRINT, CHICAGO

INDEX OF ILLINOIS COMMERCE COMMISSION'S EXHIBITS.

Exhibit No.	Title	Page
1	Fixed Capital Investment. 1911-1925	1
2	Comparison of Fixed Capital Investment per Station in Service. 1921-1925	2
3	Investment in Central Office Telephone Equipment per Station in Service, divided according to types of Central Office Equipment. 1917-1925	3
4	Computation of Fair Rate Base, December 31, 1922, and June 30, 1923	4
5	Computation of Average Rate Base, Years 1922 and 1923	5
6	Computation of Average Rate Base, Years 1924 and 1925	6
7	Summary of Depreciation Reserve, 1911 to 1925, inclusive	7
8	Account 103—Reserve for Amortization of Intangible Capital. 1915 to 1925, inclusive	8
9	Statement Illustrating (by the use of one item of plant costing $10,000 and having a life of 10 years, the Result of (A) Recording Accrued Depreciation Annually on the Straight Line Basis and (B) Deducting this Recorded Depreciation Loss (the Depreciation Reserve) in arriving at the Rate Base for Each Succeeding Year)	8
10	(This exhibit withdrawn)	
11	Maintenance and Depreciation Expenses Expressed as a Percentage of Plant and Equipment. 1911 to 1925, inclusive	9
12	Maintenance and Depreciation of Station Apparatus. 1916 to 1925	10
13	Determination of Average Life (Central Office Equipment) based on Each Year's Operations by Use of Formula: (All Factors are on a 1911 Cost Level Basis). 1911 to 1923	11
13-A	Theoretical Computation Showing the Results of Applying Two Formulae Used by the Illinois Bell Telephone Company in Determining Life of Various Classes of Property	12-13

Exhibit No.	Title	Page
14	Statement Showing Variations in the Service Life of the Different Classes of Telephone Property	14-15
15	Annual Depreciation and Amortization Rates—Straight Line Method	16-19
16	Income Account—1922 and 1923 (Based on the assumption that the Illinois Commerce Commission Order of August 16, 1923, was effective January 1, 1922)	20-21
17	Income Account—1924 and 1925 (Based on Illinois Commerce Commission Order effective October 1, 1923)	22-23
18	Rate of Return on Original Cost. 1922 and 1923. (Based on the assumption that the Illinois Commerce Commission Order of August 16, 1923, was effective as of January 1, 1922)	24
19	Rate of Return on Original Cost. 1924 and 1925. (Based on Illinois Commerce Commission Order effective October 1, 1923)	25
20	Comparison of Operating Revenues—Four Years, January 1, 1922 to December 31, 1925	26
21	Comparison of Operating Expenses—Four Years, January 1, 1922, to December 31, 1925	27-28
22	Telephone Stations in Service. 1922 to 1925	29
23	Table 106—Public Finance, Interest Rates and Bond Yields	30
24	Table 108—Stock Price Indexes by Groups and Yields	31-32
25	Balance Sheet (Entire Company) as of December 31, 1922. (Not printed as same date is contained in City's Exhibit 80 (Sheet 2) for 1922)	
26	Comparison of the Cost of Operating Manual and Machine Switching (Dial) Equipment. 1924 to 1928	33-34
27		
28	Specific Estimate No. 19218	35-52
29	Specific Estimate No. 25116	53-57
30	Specific Estimate No. 25168	58-64
31	Summary of Materials Purchased from the Western Electric Company and Charged to Acct. 7-R.—"Repairs to Central Office Telephone Equipment" during the month of October, 1921.	64

Exhibit No.	Title	Page
31-A	Summary of Materials Removed from Plant Returned to the Western Electric Company and Credited to Acct. 7-R.—"Repairs to Central Office Telephone Equipment" during the month of October, 1921	65
32	Summary of Materials Purchased from the Western Electric Company and Charged to Acct. 18-R.—"Repairs to Station Apparatus" during the month of October, 1921	65
32-A	Summary of Materials Removed from Plant Returned to the Western Electric Company and Credited to Acct. 18-R.—"Repairs to Station Apparatus" during the month of October, 1921.	66
33	Analysis of Miscellaneous Item of $22,845.72 included in the Charges to Acct. 18-R.—"Repairing of Station Apparatus"	66
34	Summary of Materials Purchased from the Western Electric Company and Charged to Acct. 58-R.—"Repairs to Private Branch Exchanges" during the month of October, 1921	67
34-A	Summary of Materials Removed from Plant Returned to Western Electric Company and Credited to Acct. 58-R.—"Repairs to Private Branch Exchanges" during the Month of October, 1921	67
35	Maintenance and Depreciation Expenses and Gross Additions and Retirements of Fixed Capital—1923	68
36	Summary of Depreciation Reserve for Years 1911 to 1925, inclusive, with adjustments in years 1921 to 1925, based on Public Utilities Commission's Allowance for Expense of Depreciation, (Acct. 608) of $2,000,000 plus 4 per cent on Net Additions	68
37	Extract from 24th Annual Report of the Interstate Commerce Commission, December 21, 1910	69
38	Extract from 30th Annual Report of the Interstate Commerce Commission, December 1, 1916	69
39	Extract from 33rd Annual Report of the Interstate Commerce Commission, December 1, 1919	70
40	Extract from 35th Annual Report of the Interstate Commerce Commission, December 1, 1921	70

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION.

ILLINOIS BELL TELEPHONE COMPANY, Plaintiff, vs. **P. H. MOYNIHAN, HAL W. TROVILLION, WILLIAM J. SMITH, ALEX J. JOHNSON, J. PAUL KUHN, JAMES R. CLARK and DAN JACKSON, the Persons Constituting the Illinois Commerce Commission of the State of Illinois, and OSCAR E. CARLSTROM, Attorney-General of the State of Illinois,** Defendants, and **CITY OF CHICAGO, a Municipal Corporation,** Intervenor.	**In Equity No. 3746**

EXHIBITS OF ILLINOIS COMMERCE COMMISSION

VOLUME I

(Exhibits Nos. 1 to [redacted] 40)

COMMISSION'S EXHIBIT 1.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

FIXED CAPITAL INVESTMENT

(Plant and Equipment in Service).

Year	Balance Jan. 1	Gross Additions	Sold, Removed or Abandoned	Net Additions	Transfers from and to Chgo. Divn.	Balance Dec. 31
	(1)	(2)	(3)	(4)	(5)	(6)
1911	$.....	$.....	$.....	$.....	$.....	$ 29,020,154
1912	29,020,154	6,068,089	2,247,332	3,820,757	.....	32,840,911
1913	32,840,911	7,032,010	1,997,392	5,034,618	.....	37,875,529
1914	37,875,529	8,370,312	2,548,884	5,821,428	.....	43,696,957
1915	43,696,957	6,876,493	2,828,414	4,048,079	.....	47,745,036
1916	47,745,036	7,101,740	2,454,094	4,647,646	186,165-Cr.	52,206,517
1917	52,206,517	9,225,470	3,186,233	6,039,237	.....	58,245,754
1918	58,245,754	6,644,036	1,796,369	4,847,667	.....	63,093,421
1919	63,093,421	5,705,533	1,808,039	3,897,494	.....	66,990,915
1920	66,990,915	7,301,318	1,838,779	5,462,539	1,527-Cr.	72,451,927
1921	72,451,927	6,850,990	2,720,790	4,130,200	812,819-Dr.	77,394,946
1922	77,394,946	10,355,359	2,783,692	7,571,667	721,203-Dr.	85,687,816
1923	85,687,816	18,431,590	3,978,036	14,453,554	4,049-Dr.	100,145,419
1924	100,145,419	15,752,026	4,901,149	10,850,877	8,670-Cr.	110,987,626
1925	110,987,626	21,452,483	5,936,341	15,516,142	10,301-Cr.	126,493,467
Totals	.....	$137,167,449	$41,025,544	$96,141,905	$1,331,408-Dr.	.....

NOTE:—Gross additions and retirements not available for all classes of plant prior to 1912.

Above figures do not include Construction Work in Progress.

Column (3) does not include transfers of plant values from one Division to another, which are shown in column (5).

Column (5) represents mainly transfers of property between the Chicago Division and other Divisions.

COMMISSION'S EXHIBIT 2.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

COMPARISON OF FIXED CAPITAL INVESTMENT PER STATION IN SERVICE.
Five Years Ended December 31, 1925.

	Dec. 31, 1921	Dec. 31, 1922	Dec. 31, 1923	Dec. 31, 1924	Dec. 3 19
	(1)	(2)	(3)	(4)	(5)
Total Number of Stations in Service	605,495	638,694	691,545	741,936	79
FIXED CAPITAL INVESTMENT PER STATION:					
Right of Way	$ .38	$ .38	$ .38	$ .37	$
Land and Buildings	17.01	16.38	16.06	16.41	1
Central Office Equipment	28.22	31.90	41.00	41.56	4
Station Equipment:					
Station Apparatus	11.37	12.25	12.87	13.56	1
Station Installations	8.25	8.61	8.95	9.24	
Interior Block Wires	.04	.04	.04	.06	
Sub-total	19.66	20.90	21.86	22.86	2
Private Branch Exchanges	6.56	7.02	7.35	7.88	
Booths and Special Fittings	.38	.39	.38	.46	
Total Station Equipment	26.60	28.31	29.59	31.20	3
Aerial Plant	10.45	10.57	10.94	11.37	1
Underground Plant	39.94	40.20	40.76	42.37	4
General Equipment	1.85	2.02	2.18	2.28	
Interest During Construction	.22	.76	.93	.96	
Miscellaneous Construction Expenditures	.....	...	.03	.07	
Toll Lines	3.15	3.64	2.94	3.00	
Total Investment Per Station	$127.82	$134.16	$144.81	$149.59	$1

COMMISSION'S EXHIBIT 3.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION

INVESTMENT IN CENTRAL OFFICE TELEPHONE EQUIPMENT PER TELEPHONE STATION IN SERVICE, DIVIDED ACCORDING TO TYPES OF CENTRAL OFFICE EQUIPMENT

of 31,	Manual Type				Machine Type (a)				Totals		
	Investment	Number of Offices	Stations Served	Investment per Station	Investment	Number of Offices	Stations Served	Investment per Station	Investment	Stations	Investment per Station
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
7	$11,526,507	57	487,481	$23.65	$ 840	0	0	0	$11,527,347	487,481	$23.65
8	12,674,494	60	504,428	25.13	1,995	0	0	0	12,676,489	504,428	25.13
9	13,364,643	62	554,114	24.12	1,995	0	0	0	13,366,638	554,114	24.12
0	14,469,347	65	575,840	25.13	1,995	0	0	0	14,471,342	575,840	25.13
1	16,312,831	67	605,495	26.94	5,777	0	0	0	16,318,608	605,495	26.95
2	19,536,330	74	638,694	30.59	7,684	0	0	0	19,544,014	638,694	30.60
3 (b)	20,591,691	75	642,435	32.05	5,654,118	1	15,000	376.94	26,245,809	657,435	39.92
3	21,407,515	73	668,335	32.03	6,057,862	2	23,210	261.00	27,465,377	691,545	39.72
4	23,774,709	74	711,253	33.43	6,075,135	2	30,683	198.00	29,849,844	741,936	40.23
5	27,602,608	80	738,731	37.36	8,227,565	3	52,033	158.12	35,830,168	790,764	45.31

(a) Includes Call Indicator Equipment attached to Manual Type Offices necessary for operation with Machine Type Offices, amounting to $993,571, carried in Manual investment account.

(b) Represents investment as of June 30, 1923.

Commission's Exhibit No. 3

3

Commission's Exhibit 4.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

As of December 31, 1922, and June 30, 1923.

	Dec. 31, 1922	June 30, 1923
Total Plant in Service	$ 85,687,816	$ 95,626,014
Construction Work in Progress	4,250,000	138,840
Total Plant	89,937,816	95,764,854
Add: Allowances made by Illinois Commerce Commission over and above the "book value" for		
Overheads omitted from books	5,000,000	5,000,000
Working Capital	3,000,000	3,000,000
Going Value	4,196,873	4,196,873
	20,000,000	20,000,000
Total	122,134,689	127,961,727
Deduct: Accrued Depreciation (represented by Depreciation and Amortization Reserves)	26,169,631	27,404,372
Fair Rate Base	$ 95,965,058	$100,557,355
Commission's finding of Fair Value	$ 96,000,000	

COMMISSION'S EXHIBIT 5.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

COMPUTATION OF AVERAGE RATE BASE
For the Years 1922 and 1923.

	1922	1923
	(1)	(2)
Average Total Plant in Service during year	$ 81,226,911	$ 93,561,884
Average Construction Work in Progress during year	4,117,866	1,783,152
Add: Allowances made by Illinois Commerce Commission above the "book value" for		
Overhead omitted from books	5,000,000	5,000,000
Working Capital	3,000,000	3,000,000
Going Value	4,196,873	4,196,873
	20,000,000	20,000,000
Total	117,541,650	127,541,909
Deduct: Accrued Depreciation (a) (represented by Depreciation and Amortization Reserves).	23,957,736	25,437,855
Average Rate Base	$ 93,583,914	$102,104,054

(a)—Average balance, with accruals since Jan. 1, 1922, adjusted to comply with Ill. C. C. Order of 8-16-23.

COMMISSION'S EXHIBIT 6.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

COMPUTATION OF AVERAGE RATE BASE
For the Years 1924 and 1925.

	1924	1925
	(1)	(2)
Average Total Plant in Service during year	$105,242,532	$117,625,091
Average Construction Work in Progress during year	889,824	2,165,239
Add: Allowances made by Illinois Commerce Commission above the "book value" for		
Overheads omitted from books	5,000,000	5,000,000
Working Capital	3,000,000	3,000,000
Going Value	4,196,873	4,196,873
	20,000,000	20,000,000
Total	138,329,229	151,987,203
Deduct: Accrued Depreciation (a) (represented by Depreciation and Amortization Reserves)	29,372,637	30,981,801
Average Rate Base	$108,956,592	$121,005,402

(a)—Average balance, with accruals since Oct. 1, 1923, adjusted to comply with Ill. C. C. Order of 8-16-23.

COMMISSION'S EXHIBIT 7.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

SUMMARY OF DEPRECIATION RESERVE.

1911 to 1925, Inclusive.

Year ended Dec. 31	Amount Reserved for Depreciation.		Charges to Depreciation Reserve.		Balance in Depreciation Reserve December 31.	
	Amount	Per Cent of Plant	Amount	Per Cent of Plant	Amount	Per Cent of Plant
	(1)	(2)	(3)	(4)	(5)	(6)
1911	$1,446,985	4.99	$ 348,301	1.20	$ 4,384,828	15.11
1912	1,722,946	5.25	901,692	2.75	5,206,082	15.85
1913	2,051,072	5.41	1,041,264	2.75	6,215,890	16.41
1914	2,613,552	5.98	1,456,801	3.33	7,372,641	16.87
1915	2,664,271	5.58	1,600,286	3.35	8,436,626	17.67
1916	2,886,680	5.53	1,336,186	2.56	9,987,120	19.13
1917	3,222,376	5.53	1,292,110	2.22	11,917,386	20.46
1918	3,160,295	5.01	581,557	.92	14,496,124	22.98
1919	3,464,709	5.17	610,809	.91	17,350,024	25.90
1920	3,497,006	4.83	547,417	.76	20,299,613	28.02
1921	3,457,721	4.47	611,572	.79	23,145,762	29.91
1922	3,832,932	4.47	894,084	1.04	26,084,610	30.44
1923	4,731,389	4.72	1,509,877	1.51	29,306,122	29.26
1924	4,841,320	4.36	2,151,611	1.94	31,995,831	28.83
1925	5,535,402	4.38	1,932,472	1.53	35,598,761	28.14

COMMISSION'S EXHIBIT 8.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

ACCOUNT 103—RESERVE FOR AMORTIZATION OF INTANGIBLE CAPITAL.

1915 to 1925, Inclusive.

Year ended Dec. 31	Annual Credits	Annual Debits	Balance Dec. 31
	(1)	(2)	(3)
1915	$ 90	$	$ 90
1916	28,051	....	28,141
1917	11,865	....	40,006
1918	9,602	....	49,608
1919	8,766	268	58,106
1920	13,470	1,469	70,107
1921	11,841	3,724	78,224
1922	12,112	5,315	85,021
1923	12,566	9,498 * (a)	107,085
1924	13,767	213	120,639
1925	14,771	262	135,148

(*) Red figure.

(a) Includes a credit of $10,000, made to adjust over-displacement of Right-of-Way from April 1, 1920, to May 1, 1923.

COMMISSION'S EXHIBIT 9.

STATEMENT ILLUSTRATING (BY THE USE OF ONE ITEM OF PLANT COSTING $10,000 AND HAVING A LIFE OF 10 YEARS) THE RESU
ACCRUED DEPRECIATION ANNUALLY ON THE STRAIGHT LINE BASIS AND (B) DEDUCTING THIS RECORDED DEPRECIATION LOS
RESERVE) IN ARRIVING AT THE RATE BASE FOR EACH SUCCEEDING YEAR.

IT IS ASSUMED THAT THE DEPRECIATION RESERVE HAS BEEN USED FOR THE ACQUISITION OF ADDITIONAL PLANT WHICH IS INC
PLANT AND EQUIPMENT IN DETERMINING THE RATE BASE. FROM THIS TOTAL HAS BEEN DEDUCTED THE ACCRUED DEPR
VALUE AS RECORDED ANNUALLY ON THE BOOKS; THUS THE VALUE OF THE ADDITIONAL PLANT OFFSETS THE LOSS OF VAL
RESPECT TO THE ORIGINAL UNIT.

Year of operation	Company's Capital Invested in Plant & Equipment (A single unit of prop. remaining in serv. 10 yrs.)				Depreciation Reserve (Covering only Orig. Plt.)				Depr. Reserve moneys used for Additional Plant & Equipt. (Bal.—Dec. 31st)	Total Plant & Equipment (Dec. 31st)	Yea to wh Ba Ba app
	Balance at beginning of year	Replacement (end of 10th year)	Retirement (end of 10th year)	Balance at end of year	Balance at beginning of year	Depreciation Accrued during year	Retirement (end of 10th year)	Balance at end of year			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(1
	Investment at end of Construction Period..			$10,000	$	$	$	$	$	$10,000	1s
1st	$10,000	$	$	10,000	....	1,000	....	1,000	1,000	11,000	2r
2nd	10,000	.....	.....	10,000	1,000	1,000	....	2,000	2,000	12,000	3r
3rd	10,000	.....	.....	10,000	2,000	1,000	....	3,000	3,000	13,000	4t
4th	10,000	.....	.....	10,000	3,000	1,000	....	4,000	4,000	14,000	5t
5th	10,000	.....	.....	10,000	4,000	1,000	....	5,000	5,000	15,000	6t
6th	10,000	.....	.....	10,000	5,000	1,000	....	6,000	6,000	16,000	7t
7th	10,000	.....	.....	10,000	6,000	1,000	....	7,000	7,000	17,000	8t
8th	10,000	.....	.....	10,000	7,000	1,000	....	8,000	8,000	18,000	9t
9th	10,000	.....	.....	10,000	8,000	1,000	....	9,000	9,000	19,000	10
10th	10,000	10,000	10,000	10,000	9,000	1,000	10,000	(a)	....	10,000	11
11th	10,000	.....	.....	10,000	....	1,000	....	1,000	1,000	11,000	12
12th		(Same as second year)									
13th		(Same as third year)									

(a) The balance accumulated in the depreciation reserve by the end of the 10th year is $10,000. This amount is then required for the ret (as shown in col. 8) and consequently the reserve is wiped out.

The new unit, which goes into service at the end of the 10th year or the beginning of the 11th year, immediately begins to accumulate a indicated is repeated during its life.

CONCLUSIONS:

(1) The owner of the property at all times obtains a return on its entire capital devoted to the business (as shown in column 15). So lo the return on investment is the same as though no depreciation had ever occurred.

(2) At the end of the life of the property (10 years) there has been accumulated $10,000 which will fully replace the initial unit and investment unimpaired and in the same condition as though no depreciation had ever occurred.

COMMISSION'S EXHIBIT 9.

LUSTRATING (BY THE USE OF ONE ITEM OF PLANT COSTING $10,000 AND HAVING A LIFE OF 10 YEARS) THE RESULT OF (A) RECORDING DEPRECIATION ANNUALLY ON THE STRAIGHT LINE BASIS AND (B) DEDUCTING THIS RECORDED DEPRECIATION LOSS (THE DEPRECIATION IN ARRIVING AT THE RATE BASE FOR EACH SUCCEEDING YEAR.

THAT THE DEPRECIATION RESERVE HAS BEEN USED FOR THE ACQUISITION OF ADDITIONAL PLANT WHICH IS INCLUDED IN THE **TOTAL ND EQUIPMENT** IN DETERMINING THE RATE BASE. FROM **THIS TOTAL** HAS BEEN DEDUCTED THE ACCRUED DEPRECIATION OR LOSS OF RECORDED ANNUALLY ON THE BOOKS; THUS THE VALUE OF THE ADDITIONAL PLANT OFFSETS THE **LOSS** OF VALUE AS RECORDED WITH TO THE ORIGINAL UNIT.

Capital Invested in Plant & Equipment (unit of prop. remaining in serv. 10 yrs.)			Depreciation Reserve (Covering only Orig. Plt.)				Depr. Reserve moneys used for Additional Plant & Equipt. (Bal.—Dec. 31st)	Total Plant & Equipment (Dec. 31st)	Rate Base determined as of each year.			
Replacement (end of 10th year)	Retirement (end of 10th year)	Balance at end of year	Balance at beginning of year	Depreciation Accrued during year	Retirement (end of 10th year)	Balance at end of year			Year to which Rate Base applies	Total Plant and Equipt. (Col. 11)	Accrued Depreciation to be deducted (Same as Bal. in Dep. Res. Col. 9)	Rate Base on which Company is entitled to earn a return (Total Plt. less Acc'd Deprec'n)
(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
of Construction Period..		$10,000	$	$	$	$	$	$10,000	1st	$10,000	$	$10,000
$	$	10,000	....	1,000	....	1,000	1,000	11,000	2nd	11,000	1,000	10,000
.....	.....	10,000	1,000	1,000	....	2,000	2,000	12,000	3rd	12,000	2,000	10,000
.....	.....	10,000	2,000	1,000	....	3,000	3,000	13,000	4th	13,000	3,000	10,000
.....	.....	10,000	3,000	1,000	....	4,000	4,000	14,000	5th	14,000	4,000	10,000
.....	.....	10,000	4,000	1,000	....	5,000	5,000	15,000	6th	15,000	5,000	10,000
.....	.....	10,000	5,000	1,000	....	6,000	6,000	16,000	7th	16,000	6,000	10,000
.....	.....	10,000	6,000	1,000	....	7,000	7,000	17,000	8th	17,000	7,000	10,000
.....	.....	10,000	7,000	1,000	....	8,000	8,000	18,000	9th	18,000	8,000	10,000
.....	.....	10,000	8,000	1,000	....	9,000	9,000	19,000	10th	19,000	9,000	10,000
10,000	10,000	10,000	9,000	1,000	10,000	(a)	....	10,000	11th	10,000	....	10,000
.....	.....	10,000	....	1,000	....	1,000	1,000	11,000	12th	11,000	1,000	10,000
(Same as second year)												
(Same as third year)												

alance accumulated in the depreciation reserve by the end of the 10th year is $10,000. This amount is then required for the retirement of the original unit 4, 8) and consequently the reserve is wiped out.

nit, which goes into service at the end of the 10th year or the beginning of the 11th year, immediately begins to accumulate a reserve and the procedure ted during its life.

wner of the property at all times obtains a return on its entire capital devoted to the business (as shown in column 15). So far as the owner is concerned eatment is the same as though no depreciation had ever occurred.

end of the life of the property (10 years) there has been accumulated $10,000 which will fully replace the initial unit and thus maintain the original aired and in the same condition as though no depreciation had ever occurred.

COMMISSION'S EXHIBIT 11.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION

MAINTENANCE AND DEPRECIATION EXPENSES EXPRESSED AS A PERCENTAGE OF PLANT AND EQUIPMENT
1911 to 1925, Inclusive

Year ended Dec. 31	Plant and Equipment Dec. 31	Maintenance Expenses, Excluding Depreciation Charges		Net Charges to Depreciation Res. (Including Extraordinary Repairs)		Total Maintenance and Charges to Dep. Res.	
		Amount	% of Plant	Amount	% of Plant	Amount	% of Plant
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1911.....	$29,020,154	$ 2,077,605	7.16	$ 348,018	1.20	$ 2,425,623	8.36
1912.....	32,840,911	2,201,466	6.70	548,368	1.67	2,749,834	8.37
1913.....	37,875,529	2,171,216	5.73	1,041,264	2.75	3,212,480	8.48
1914.....	43,696,957	2,284,727	5.23	1,456,801	3.33	3,741,528	8.56
1915.....	47,745,036	2,295,295	4.81	1,599,335	3.35	3,894,630	8.16
1916.....	52,206,517	2,392,604	4.58	1,283,615	2.46	3,676,219	7.04
1917.....	58,245,754	2,781,104	4.77	1,292,111	2.22	4,073,215	6.99
1918.....	63,093,421	2,674,600	4.24	581,557	.92	3,256,157	5.16
1919.....	66,990,915	3,225,693	4.82	610,793	.91	3,836,486	5.73
1920.....	72,451,927	4,058,658	5.60	542,943	.75	4,601,601	6.35
1921.....	77,394,946	4,827,958	6.24	611,572	.79	5,439,530	7.03
1922.....	85,687,816	5,089,705	5.94	894,084	1.04	5,983,789	6.98
1923.....	100,145,419	5,901,733	5.89	1,506,160	1.50	7,407,893	7.40
1924.....	110,987,626	6,326,331	5.70	2,151,611	1.94	8,477,942	7.64
1925.....	126,493,467	6,876,588	5.44	1,919,336	1.52	8,795,924	6.95
SUMMARY—							
Average per year:							
Years, 1911-1916.....	40,564,184	2,237,152	5.52	1,046,233	2.58	3,283,385	8.09
Years, 1917-1922.....	70,644,130	3,776,286	5.35	755,510	1.07	4,531,796	6.41
Years, 1911-1922.....	55,604,157	3,006,719	5.41	900,872	1.62	3,907,591	7.03
Years, 1923-1925.....	112,542,171	6,368,217	5.66	1,859,036	1.65	8,227,253	7.31
Years, 1911-1925.....	66,991,759	3,679,019	5.49	1,092,504	1.63	4,771,523	7.12

COMMISSION'S EXHIBIT 12.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.
MAINTENANCE AND DEPRECIATION OF STATION APPARATUS.

	Charges to Acct. 18-R, Repair of Station Apparatus	Net Realized Depreciation Exclusive of Extraordinary Repairs	Amount Reserved for Depreciation
1916	$ 536,896	$ 125,752	$ 391,445
1917	619,519	73,434	441,559
1918	568,610	47,241	480,884
1919	713,629	82,664	482,397
1920	796,485	8,944 cr.	476,897
1921	896,383	103,217 cr.	463,462
1922	845,152	2,989	514,455
1923	908,048	58,581	585,154
1924	996,215	165,617	570,752
1925	1,077,756	122,188	634,399
Total for 10 years	$7,958,693	$ 566,305	$5,041,401
Average per year	795,869	56,630	504,140

COMMISSION'S EXHIBIT 13.

ILLINOIS BELL TELEPHONE COMPANY
CHICAGO DIVISION

CENTRAL OFFICE EQUIPMENT

DETERMINATION OF AVERAGE LIFE BASED ON EACH YEAR'S OPERATIONS BY USE OF FORMULA:

$$L = \frac{\log (G \div D)}{\log (1+r)}$$

ALL FACTORS ARE ON A 1911 COST LEVEL BASIS

Year	Gross Additions to plant	Cost of Plant Displaced		Log (G÷D)	Rate of Growth	Log (1+r)	Life in Years
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	G	D	G÷D		r		L
1911	$1,284,334	$180,279	7.124	.8527	.2522	.0977	8.7
1912	913,401	578,743	1.578	.1981	.0610	.0257	7.7
1913	1,102,128	189,579	5.814	.7645	.1569	.0633	12.1
1914	2,276,457	196,817	11.566	1.0632	.3091	.1170	9.1
1915	1,691,805	722,841	2.340	.3692	.1100	.0453	8.1
1916	968,380	181,116	5.347	.7281	.0805	.0336	21.7
1917	937,969	367,361	2.553	.4071	.0540	.0228	17.8
1918	781,244	102,192	7.645	.8834	.0610	.0257	34.4
1919	604,012	108,598	5.562	.7452	.0419	.0178	41.8
1920	669,079	71,297	9.384	.0724	.0486	.0206	47.2
1921	958,465	102,153	9.383	.0723	.0663	.0279	34.9
1922	1,857,098	182,816	10.158	1.0068	.1216	.0498	20.1
1923	4,448,537	460,779	9.654	.9847	.3100	.1173	8.4

Average—1911-1923, inclusive 20.9
Average—1911-1923, excluding 1918, 1919, 1920, and 1921..... 12.6

COMMISSION'S EXHIBIT 13A.

THEORETICAL COMPUTATION SHOWING THE RESULTS OF APPLYING TWO FORMULAS USED BY THE ILLINOIS BELL TELEPHONE COMPANY IN DETERMINING LIFE OF VARIOUS CLASSES OF PROPERTY.

The statement covers a 46-year period and is based upon the assumptions of original investment of $100, annual growth of 10% and a life of 3 years.

N = any one year.
L = life = 3 years.
r = rate of growth = 10% per annum.
G_n = Gross additions of any certain year.
D_n = Displacements of any year.
$D_n + L$ = Displacements of the year which is 3 years later than year "N."

Year	Gross Additions	Displacements	Balance at end of year	Displacement figures obtained by proving Formula $D_{n+L}=D_n(1+r)^L$.	Life in years obtained by use of Formula $L=\frac{\log(G_n \div D_n)}{\log(1+r)}$
(1)	(2)	(3)	(4)	(5)	(6)
1	$ 100.00	$	$ 100.00	$	$ .....
2	10.00	.....	110.00	.....	.....
3	11.00	.....	121.00	.....	.....
4	112.10	100.00	133.10	.....	1.198
5	23.31	10.00	146.41	.....	8.880
6	25.641	11.00	161.051	.....	8.880
7	128.205	112.10	177.156	133.100	1.4087
8	41.025	23.31	194.871	13.310	5.931
9	45.128	25.641	214.358	14.641	5.931
10	149.640	128.205	235.793	149.205	1.620
11	64.605	41.025	259.373	31.025	4.764
12	71.065	45.128	285.310	34.128	4.764
13	178.171	149.640	313.841	170.640	1.825
14	95.989	64.605	345.225	54.604	4.155
15	105.587	71.065	379.747	60.065	4.155
16	216.145	178.171	417.721	199.171	2.026
17	137.761	95.989	459.493	85.989	3.790
18	151.536	105.587	505.442	94.587	3.790
19	266.689	216.145	555.986	237.145	2.205
20	193.359	137.761	611.584	127.761	3.557
21	212.694	151.536	672.742	140.536	3.557
22	333.963	266.689	740.016	287.689	2.360
23	267.360	193.359	814.017	183.359	3.400
24	294.095	212.694	895.418	201.694	3.400

ear	Gross Additions	Displace-ments	Balance at end of year	Displacement figures obtained by proving Formula $D_{n+L}=D_n(1+r)^L$.	Life in years obtained by use of Formula $L=\frac{\log(G_n \div D_n)}{\log(1+r)}$
25	423.504	333.963	984.959	354.963	2.490
26	365.855	267.360	1,083.454	257.360	3.291
27	402.440	294.095	1,191.799	283.095	3.291
28	542.683	423.504	1,310.978	444.504	2.598
29	496.952	365.855	1,442.075	355.856	3.213
30	546.647	402.440	1,586.282	391.440	3.213
31	701.311	542.683	1,744.910	563.683	2.690
32	671.443	496.952	1,919.401	486.953	3.156
33	738.587	546.647	2,111.341	534.647	3.156
34	912.445	701.311	2,322.475	722.310	2.761
35	903.690	671.443	2,554.722	661.443	3.118
36	994.059	738.587	2,810.194	727.587	3.118
37	1,193.464	912.445	3,091.213	933.445	3.379
38	1,212.811	903.690	3,400.334	893.690	3.086
39	1,334.092	994.059	3,740.367	983.059	3.086
40	1,767.500	1,193.464	4,114.403	1,214.464	2.856
41	1,624.251	1,212.811	4,525.843	1,202.811	3.064
42	1,786.676	1,334.092	4,978.427	1,323.092	3.064
43	2,065.342	1,567.500	5,746.269	1,588.500	2.894
44	2,171.877	1,624.251	6,023.895	1,614.251	3.047
45	2,389.065	1,786.676	6,626.284	1,775.676	3.047
46	2,727.970	2,065.342	7,288.912	2,086.342	2.921

Commission's Exhibit 14.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION

STATEMENT SHOWING VARIATIONS IN THE SERVICE LIFE OF THE DIFFERENT CLASSES OF TELEPHONE PROPERTY

CLASSES OF DEPRECIABLE PROPERTY:	Compiled from the Returns of 933 Individual Telephone Companies to the I. C. C. Average service life (Years)	Compiled from Depreciation Schedules used by Illinois Bell Telephone Company		
		1921-1923 Average service life (Years)	1924-1927 Average service life (Years)	1928 Average service life (Years)
	(1)	(2)	(3)	(4)
Right of way—Exchange	11 to 50	20	20	30
Right of way—Toll	10 to 100	40	40	50
Buildings	10 to 100	20 to 40	20 to 40	18 to 40 (a)
Central office telephone equipment	5 to 33.3	10	12	8 to 18 (a)
Other equipment of central office	5 to 33.3	10	..	9
Subscribers' station apparatus	4 to 35	5	5	6
Subscribers' station installations	4 to 25	..	..	..
Interior block wires	5 to 20	..	..	..
	5 to 20	7	7	7 to 12

Aerial cable—Exchange	5 to 50	14	14	18
Aerial cable—Toll	9 to 40	18	16	20
Aerial wire—Exchange (copper)	3 to 50	7) (b)	6) (b)	20
Aerial wire—Exchange (iron)	5 to 40	)	)	..
Aerial wire—Exchange (covered)	4 to 20	)	)	8
Aerial wire—Toll (copper)	3 to 75	18	19	20
Aerial wire—Toll (iron)	6 to 40	..	14	..
Aerial wire—Toll (loading coils)	10 to 20	20	20	20
Underground conduit—Exchange (main)	5 to 200	50	50	50
Underground conduit—Exchange (subsidiary)	10 to 50	20	20	30
Underground conduit—Toll	15 to 75	50	50	50
Underground cable—Exchange (main)	10 to 100	25	21	20 to 25
Undergrouid cable—Exchange (subsidiary)	10 to 50	20	15	15
Underground cable—Exchange (loading coils)	10 to 30	..	..	10
Underground cable—Toll	10 to 50	25	21	25
Underground cable—Toll (loading coils)	10 to 30	25	21	20
Submarine cable—Exchange	7 to 20	10	10	20
Submarine cable—Toll	7 to 20	10	10	20
Furniture and fixtures	1 to 40	10	12	14
General shop equipment	1 to 25	..	..	..
General store equipment	1 to 25	..	8	12
General stable and garage equipment	1 to 25	..	5	3.5 to 8
General tools and implements	1 to 25	..	2.5 to 6	2.5 to 7

(a) Different lives used for various types.

(b) Composite life of all exchange aerial wire.

COMMISSION'S EXHIBIT 15.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION
ANNUAL DEPRECIATION AND AMORTIZATION RATES—STRAIGHT LIN

	Dep. Rates developed from study made in 1912 for cent. group Ass'd Bell Tel. Co.'s.			Dep. Rates Recommended for use in Chicago Based on 1912 Study		Depr. Rates Devel.	Depr. Rates Devel. in 1919			Depr. Rates in 1-1-21 to 12-3	
	Probable Life in yrs.	Net Salvage Value	Depr. Rate	As appl'd in 1913.	As appl'd in 1917.	in 1917	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Probable Life in yrs.	Net Salvage Value
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
		%	%	%	%	%		%	%		%
207—**Right of Way:**											
Exchange	15	5.	6.3	...	...	6.6	16	0.	6.3	20	0.
Toll	40	0.	2.5	...	...	2.5	16	0.	6.3	40	0.
Total Right of Way	...	...	...	6.6	6.6	...	...	...	...	...	...
212—**Buildings:**											
Buildings	24	38.	2.6	2.6	2.6	3.6	24	15.	3.6	40	0.
Fireproof	...	...	...	...	...	...	...	...	...	...	...
Fireproof—C. O.	...	...	...	...	...	...	...	...	...	...	...
Non-fireproof	...	...	...	...	...	...	...	...	...	...	...
Fireproof—C. O.—Manual	...	...	...	...	...	...	...	...	...	...	...
Fireproof—C. O.—Dial	...	...	...	...	...	...	...	...	...	...	...
Other Fireproof	...	...	...	...	...	...	...	...	...	...	...
Non-fireproof	...	...	...	...	...	...	...	...	...	...	...
Other Non-fireproof	...	...	...	...	...	...	...	...	...	...	...
221—**C. O. Equipment:**											
C. O. Equipment	8.4	17.	9.9	9.9	9.9	9.9	10	20.	8.0	10	20.
No. 1—Manual—C. B.	...	...	...	...	...	...	...	...	...	...	...
Other Manual—C. B.	...	...	...	...	...	...	...	...	...	...	...
Dial	...	...	...	...	...	...	...	...	...	...	...
Long Lines	...	...	...	...	...	...	...	...	...	...	...
222—Other Equipment of Cent. Office	10.0	0.	10.0	9.9	...	...	...	...	...	...	...
231—Station Apparatus	7.0	10.	12.9	12.9	12.9	10.0	5	60.	8.0	5	65.
232—Station Installations (See Note)	...	...	...	2.0	2.0	...	...	...	...	...	...
233—Interior Block Wires (See Note)	8.0	12.	11.0	3.3	3.3	...	...	...	...	...	...
234—Private Branch Exchanges	8.4	17.	9.9	9.9	9.9	10.0	5	60.	8.0	7	45.
Private Brch. Exch.—Multiple	...	...	...	...	...	...	...	...	...	...	...
Private Brch. Exch.—Non-multiple	...	...	...	...	...	...	...	...	...	...	...
235—Booths and Special Fittings	10.0	...	10.0	10.0	10.0	10.0	5	60.	8.0	7	45.
241—Exchange Pole Lines	10.0	...	10.0	10.0	10.0	10.0	10	...	10.0	13	...
242—Exchange Aerial Cable	...	...	...	...	...	5.8	12	25.	6.2	14	30.
Exchange Cable	10.0	25.	7.5	7.5	7.5	...	...	...	...	...	...
Exchange Terminal	9.0	...	11.1	...	...	...	...	...	...	...	...
243—**Exchange Aerial Wire:**											
Bare Copper	11.0	28.	6.3	...	6.3	6.8	...	...	...	...	...
Bare Iron	6.5	20•	18.5	...	...	15.5	...	...	...	...	...
Insulated Wire	7.5	13.	11.6	...	11.6	12.7	...	...	...	7	15.
Drop Wires	...	...	...	...	3.3	...	...	...	...	7	15.
Covered (Span)	...	...	...	...	...	...	...	...	...	...	...
Copper	...	...	...	...	...	...	...	...	...	...	...
Total Exch. Aerial Wire	...	...	...	4.3	...	12.5	8	30.	9.0	...	...

Note: Not included in depreciable property on which reserve is computed since 1917.
•—Red figures.

(Continued on next sheet)

EXHIBIT 15.

PANY—CHICAGO DIVISION.

N RATES—STRAIGHT LINE METHOD.

evel.	Depr. Rates in use 1-1-21 to 12-31-23.			Dept. Rates in use 1-1-24 to 12-31-27.				Depr. Rates Effective 1-1-28.			
Depr. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Comp. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Comp. Rate
(9)	(10	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
%		%	%		%	%	%		%	%	%
6.3	20	0.	5.0	20	0.	5.0	5.0	30	0.	3.3	3.3
6.3	40	0.	2.5	40	0.	2.5	2.5	50	0.	2.0	2.0
...	...	...	...	...	...	...	...	...	...	...	...
3.6	40	0.	2.5	...	...	...	...	...	...	...	...
...	...	...	...	40	40.	1.5)		...	...	...	...
...	...	...	...	25	30.	2.8)	2.5	...	...	...	...
...	...	...	...	20	20.	4.0)		...	...	...	...
...	...	...	...	...	...	...	...	25	20.	3.2)	
...	...	...	...	...	...	...	...	35.	20.	2.3)	
...	...	...	...	...	...	...	...	40	0.	2.5)	2.8
...	...	...	...	...	...	...	...	20	20.	4.0)	
...	...	...	...	...	...	...	...	18	40.	3.3)	
8.0	10	20.	8.0	12	20.	6.7	6.7	...	...	...	...
...	...	...	...	...	...	...	...	13	10.	6.9)	
...	...	...	...	...	...	...	...	16	5.	5.9)	6.8
...	...	...	...	...	...	...	...	18	5.	5.3)	
...	...	...	...	...	...	...	...	8	20.	10.0)	
8.0	5	65.	7.0	5	70.	6.0	6.0	9	40.	6.7	6.7
...	...	...	...	...	...	...	...	4.5	70.	6.7	6.7
...	...	...	...	...	...	...	...	...	...	...	...
8.0	7	45.	8.0	7	50.	7.0	7.0	...	...	...	...
...	...	...	...	...	...	...	...	...	...	...	...
...	...	...	...	...	...	...	...	12	15.	7.1)	7.1
8.0	7	45.	8.0	8	35.	8.0	8.0	7	50.	7.1)	
10.0	13	...	7.7	14	5.*	7.5	7.5	15	35.	4.3	4.3
6.2	14	30.	5.0	14	15.	6.0	6.0	23	10.*	4.8	4.8
...	...	...	...	...	...	...	...	18	10.	5.0	5.0
...	...	...	...	...	...	...	...	...	...	...	...)
				...	...	...	...	...	...	...	...)
...	...	...	...	...	...	...	...	...	...	...	...
...	...	...	...	...	...	...	...	...	...	...	...
...	7	15.	12.0	...	...	...	...	...	...	...	...
...	7	15.	2.4(a)	...	...	...	...	...	...	...	...
...	...	...	...	...	...	...	...	...	...	...	...
...	...	...	...	...	...	...	...	8	15.*	14.4)	4.3
...	...	...	...	...	...	...	...	20	25.	3.8)	
9.0	...	...	5.2	6	15.	14.1(g)	6.2	...	...	...	...

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

ANNUAL DEPRECIATION AND AMORTIZATION RATES—STRAIGHT LINE METHOD.

	Dep. Rates developed from study made in 1912 for cent. group Ass'd Bell Tel. Co.'s.			Dep. Rates Recommended for use in Chicago Based on 1912 Study		Depr. Rates Devel.	Depr. Rates Devel. in 1919			Depr. Rates in use 1-1-21 to 12-31-23			Proba
	Probable Life in yrs.	Net Salvage Value	Depr. Rate	As appl'd in 1913.	As appl'd in 1917.	in 1917	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Life yr
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(1
		%	%	%	%	%		%	%		%	%	
244—**Exchange U. G. Conduit**													
Main	40	0.	2.5	...	2.5	2.0	...	...	...	50	0.	2.0	
Subsidiary	18	0.	5.6	...	5.6	6.7	...	...	...	20	0.	5.0	
Total Exch. U. G. Conduit	...	...	...	2.8	...	2.5	40	0.	2.5	...	...	2.4	
245—**Exchange U. G. Cable:**													
Main	18	34.	3.7	...	3.7	3.0	...	...	...	25	40.	2.4	
Subsidiary	11	18.	7.5	...	7.5	5.8	...	...	...	20	20.	4.0	
Terminals	9	0.	11.1	...	...	...	...	...	...	...	...	...	
Main—Trunk	...	...	...	...	...	...	...	...	...	...	...	...	
Main—Subsc.	...	...	...	...	...	...	...	...	...	...	...	...	
House	...	...	...	...	5.7	...	...	...	...	...	...	...	
Load Coils	...	...	...	...	...	...	...	...	...	...	...	...	
Total Exch. U. G. Cable	...	...	...	4.1	...	3.3	18.5	39.	3.3	...	...	2.7	
246—Exchange Submarine Cable	10	0.	10.0	10.0	10.0	11.1	12	0.	8.3	10	0.	10.0	
251—Toll Pole Lines	14	0.	7.1	7.1	7.1	8.3	13	0.	7.7	16	0.	6.3	
252—**Toll Aerial Cable:**													
Cable	10	25.	7.5	7.5	7.5	5.8	...	...	...	...	...	...	
Load Coils	20	0.	5.0	...	...	5.0	...	...	...	...	...	...	
Total Aerial Cable	...	...	...	...	...	5.6	14	30.	5.0	18	35.	3.6	
253—**Toll Aerial Wire:**													
Copper	20	40.	2.9	...	2.5(c)	4.2	...	...	...	18	30.	3.9	
Iron	10	19.*	11.9	...	...	9.3	...	...	...	...	...	...	
Load Coils	...	...	5.0	...	...	5.0	...	...	...	20	0.	5.0	
Total Toll Aerial Wire	...	...	...	2.9	...	4.2	16	35.	4.0	...	...	3.9	
254—Toll U. G. Conduit	40	...	2.5	2.5	2.5	2.0	50	0.	2.0	50	...	2.0	
255—**Total U. G. Cable:**													
Cable	22	34.	3.0	3.7	3.7	2.4	...	...	...	25	40.	2.4	
Load Coils	20	...	5.0	...	...	5.0	...	...	...	25	...	4.0	
Total Toll U. G. Cable	...	...	...	...	...	2.9	22	30.	3.2	...	...	2.5	
256—Toll Submarine Cable	...	...	10.0	...	...	11.1	12	...	8.3	10	...	10.0	
261—Office Furniture and Fixtures	10	...	10.0	6.0	...	10.0	10	...	10.0	10	20.	8.0	
268—Interest During Construction	...	...	...	...	...	...	...	...	...	...	...	...	
274-02—Property Rights—Acquired	...	...	...	...	...	...	...	...	...	...	...	...	
274-73—Wire Tel.—Adjunct to Radio Br.	...	...	...	...	...	...	...	...	...	...	...	...	
274-80—Picture Trans. Eq. Sdg. & Recg.	...	...	...	...	...	...	...	...	...	...	...	...	
274-90—Photographic Apparatus	...	...	...	...	...	...	...	...	...	...	...	...	
Composite per cent, excluding Right of Way.	...	...	...	5.91(b)	6.04(c)	5.71(d)	...	...	5.12(e)	...	...	4.63(f)	

*—Red figures.

(See notes following.)

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.
ANNUAL DEPRECIATION AND AMORTIZATION RATES—STRAIGHT LINE METHOD.

ed in up .'s.	Dep. Rates Recommended for use in Chicago Based on 1912 Study		Depr. Rates Devel.	Depr. Rates Devel. in 1919			Depr. Rates in use 1-1-21 to 12-31-23			Depr. Rates in use 1-1-24 to 12-31-27				Depr. Rates in use 1-1-28			
Depr. Rate	As appl'd in 1913.	As appl'd in 1917.	in 1917	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Comp. Rate	Probable Life in yrs.	Net Salvage Value	Depr. Rate	Comp. Rate
(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
%	%	%	%		%	%		%	%		%	%	%		%	%	%
3.5	...	2.5	2.0	...	...	...	50	0.	2.0	50	0.	2.0)	2.4	50	0.	2.0)	2.2
5.6	...	5.6	6.7	...	...	...	20	0.	5.0	20	0.	5.0)		30	0.	3.3)	
...	2.8	...	2.5	40	0.	2.5	...	...	2.4	...	...	...	...	...	...	...	...
3.7	...	3.7	3.0	...	...	...	25	40.	2.4	21	40.	2.9)	3.4	...	...	...	...
7.5	...	7.5	5.8	...	...	...	20	20.	4.0	15	20.	5.3)		15	5.	6.3	3.7
1.1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
...	...	...	...	...	...	...	...	...	...	...	...	...	...	25	35.	2.6)	
...	...	...	...	...	...	...	...	...	...	...	...	...	...	20	35.	3.3)	3.7
...	...	5.7	...	...	...	...	...	...	...	...	...	...	...	20	0.	5.0)	
...	...	...	...	...	...	...	...	...	...	...	...	...	...	10	40.	6.0)	
...	4.1	...	3.3	18.5	39.	3.3	...	...	2.7	...	...	...	...	...	...	...	...
0.0	10.0	10.0	11.1	12	0.	8.3	10	0.	10.0	10	0.	10.0	10.0	20	0.	5.0	5.0
7.1	7.1	7.1	8.3	13	0.	7.7	16	0.	6.3	16	0.	6.3	6.3	20	5.*	5.3	5.3
7.5	7.5	7.5	5.8	...	...	...	...	...	...	...	...	...	...	20	30.	3.5)	3.9
5.0	...	...	5.0	...	...	...	...	...	...	...	...	...	...	20	0.	5.0)	
...	...	...	5.6	14	30.	5.0	18	35.	3.6	16	20.	5.0	5.0	...	...	...	...
3.9	...	2.5(c)	4.2	...	...	...	18	30.	3.9	19	30.	3.7)		20	25.	3.8)	
1.9	...	...	9.3	...	...	...	...	...	...	14	15.*	8.2)	3.8	...	...	...)	3.9
5.0	...	...	5.0	...	...	...	20	0.	5.0	20	...	5.0)		20	0.	5.0)	
...	2.9	...	4.2	16	35.	4.0	...	...	3.9	...	...	...	...	...	...	...	...
2.5	2.5	2.5	2.0	50	0.	2.0	50	...	2.0	50	0.	2.0	2.0	50	0.	2.0	2.0
3.0	3.7	3.7	2.4	...	...	...	25	40.	2.4	21	40.	2.9)	3.1	25	25.	3.0)	3.6
5.0	...	...	5.0	...	...	...	25	...	4.0	21	0.	4.7)		20	0.	5.0)	
...	...	...	2.9	22	30.	3.2	...	...	2.5	...	...	...	...	20	...	...	...
0.0	...	...	11.1	12	...	8.3	10	...	10.0	10	0.	10.0	10.0	20	0.	5.0	5.0
0.0	6.0	...	10.0	10	...	10.0	10	20.	8.0	12	20.	6.7	6.7	14	15.	6.1	6.1
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	6.4	...
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2.0	...
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	30.0	...
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	25.0	...
...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	17.5	...
...	5.91(b)	6.04(c)	5.71(d)	...	...	5.12(e)	...	...	4.63(f)	...	...	...	4.67(h)	...	...	4.87(i)	...

NOTES PERTAINING TO FOREGOING STATEMENT OF ANNUAL DEPRECIATION AND AMORTIZATION RATES—STRAIGHT LINE METHOD.

(a) Rate of 2.4 per cent is arrived at by dividing the actual rate (12.1 per cent) by 5 as the company estimates that only 1/5th of the drop wire removals are charged to the depreciation reserve.

(b) The composite rate of 5.91 per cent was determined by applying separately the per cents applicable to each class of plant, to the balance in each acount as of January 1, 1913, including land on which no depreciation was figured.

(c) The composite rate of 6.04 per cent was determined by applying separately the per cents applicable to each class of plant, to balance in each account, including land on which no depreciation was figured, as of November 30, 1915, with the exception of using 2.9 per cent as the depreciation rate on Toll Aerial Wire instead of that shown (2.5 per cent).

(d) The composite rate of 5.71 per cent was determined by applying separately the per cents applicable to each class of plant, to the balance in each account as of December 31, 1917, including land on which no depreciation was figured.

(e) The composite rate of 5.12 per cent was determined by applying separately the per cents applicable to each class of plant, to the balance in each account as of June 30, 1919, including land on which no depreciation was figured.

(f) The composite rate of 4.63 per cent was determined by applying separately the per cents applicable to each class of plant, to the balance in each account, *excluding* land as of December 31, 1921. If the investment in land ($1,332,249) had been included in the total investment but no depreciation computed thereon the composite per cent would have been 4.57.

(g) Applicable to 44 per cent of Exchange Aerial Wire account —56 per cent of this account being retired through the Station Removals and Changes, account 607.

(h) The composite rate of 4.67 per cent was determined by applying separately the per cents applicable to each class of plant, to the average balance in each account, *excluding* land for year ended December 31, 1924. If the investment in land ($1,683,284, average for the year) had been included in the total investment but no depreciation computed thereon the composite per cent would have been 4.59.

(i) The composite rate of 4.87 per cent was determined on the same basis as above, using average balance in each account for year ended December 31, 1928. The composite per cent with investment in land included would have been 4.81.

NOTE: Prior to January 1, 1921, the company did not compute depreciation separately for each class of property, but used composite per cents for the entire plant account as a whole. The composite per cents used between January 1, 1913, and December 31, 1920, have been as follows:

Jan. 1, 1913-Dec. 31, 1917	5.75%
Jan. 1, 1918-July 31, 1918	5. %
Aug. 1, 1918-July 31, 1919 (Gov't control period)	5.72%
Aug. 1, 1919-Dec. 31, 1920	5. %

Since Jan. 1, 1921—various per cents applied to individual accounts.

The plant and equipment figures on which these depreciation rates have been applied have included the following investment:

Right of Way—Jan. 1, 1913, to June 30, 1916.

Land—Jan. 1, 1913, to Aug. 31, 1918.

Station Installations, Interior Block Wires, Total Investment in Drop Wires—Jan. 1, 1913, to Dec. 31, 1920.

COMMISSION'S EXHIBIT 16.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

INCOME ACCOUNT

Adjusted for Licensee Revenue—Dr. and Maintenance and Depreciation
(Based on the assumption that the Illinois Commerce Commission Order of August 16, 1923, was effective January 1, 1922).
For the years ender December 31, 1922, and December 31, 1923.

Line		Actual As per Company's books 1922	Actual As per Company's books 1923	Adjusted as of Jan. 1, 1922, on basis of Ill. C. C. Order 8-16-23 1922	Adjusted as of Jan. 1, 1922, on basis of Ill. C. C. Order 8-16-23 1923
	Income:	(1)	(2)	(3)	(4)
1.	Subscribers' Station Revenues	$30,600,014	$32,927,998	$30,600,014	$32,927,998
2.	Public Pay Station Revenues	2,926,042	3,143,498	2,926,042	3,143,498
3.	Toll Service Revenues	2,655,988	3,042,994	2,655,988	3,042,994
4.	Other Operating Revenues	960,294	943,779	960,294	943,779
5.	Miscellaneous Income	483,678	761,100	483,678	761,100
6.	Total	37,626,016	40,819,369	37,626,016	40,819,369
7.	Loss: Licensee Revenue—Dr.	1,606,810	1,724,251	1,293,155	1,387,947

11.	Commercial Expenses	3,986,118	4,202,273	3,986,118	4,202,273
12.	General Expenses	1,076,454	1,063,194	1,076,454	1,063,194
13.	Taxes Assignable to Telephone Operations	3,446,670(a)	3,674,933	3,446,670(a)	3,674,933
14.	Other Deductions	280,022	299,398	280,022	299,398
15.	Total Deductions	29,604,245	32,815,158	28,231,300	30,979,184
16.	Amount Available for Return	6,414,961	6,279,960	8,101,561	8,452,238
17.	Additional Amount included for Return (see note)	.....	.....	576,397	495,955
18.	Total Available for Return	6,414,961	6,279,960	8,677,958	8,948,193
19.	Amount reserved for Refunds under Temp. Injunction Order	.....	427,289	1,700,000	1,700,000
20.	Balance Available for Return (NET INCOME)	$6,414,961	$5,852,671	$6,977,958	$7,248,193
	Rate Base			$93,583,914	$102,104,054
	Rate of Return—before including additional amount (line 16)			8.66%	8.28%
	Rate of Return—after including additional amount (line 18)			9.27%	8.76%
	Rate of Return—after deducting provision for refund (line 20)			7.46%	7.10%

(a)—Includes adjustment of $97,916 on 1922 accruals, admitted by plaintiff (see affidavit U. F. Cleveland of 9-20-23, p. 35).

Note: The amount included on line 17 in the adjusted Income account figures, represents benefits accruing to the owners or stockholders, by reason of their exemption from Federal Income Taxes on the net income of their property. This tax exemption is, in effect, part of the return on the investment.

Commission's Exhibit 16

Commission's Exhibit 17.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

INCOME ACCOUNT

Adjusted for Licensee Revenue—Dr. and Maintenance and Depreciation
(Based on Illinois Commerce Commission Order effective Oct. 1, 1923).

For years ended December 31, 1924, and December 31, 1925.

Line		Actual as per Company's books 1924	Actual as per Company's books 1925	Adjusted on basis of Ill. C. C. Order effective 10-1-23 1924	Adjusted on basis of Ill. C. C. Order effective 10-1-23 1925
	Income:	(1)	(2)	(3)	(4)
1.	Subscribers' Station Revenues	$35,010,425	$37,388,585	$35,010,425	$37,388,585
2.	Public Pay Station Revenues	3,485,734	3,612,666	3,485,734	3,612,666
3.	Toll Service Revenues	3,540,855	4,184,464	3,540,855	4,184,464
4.	Other Operating Revenues	921,970	1,001,685	921,970	1,001,685
5.	Miscellaneous Income	588,518	387,327	588,518	387,327
6.	**Total**	43,547,502	46,574,727	43,547,502	46,574,727
7.	**Less: Licensee Revenue—Dr.**	1,860,436	1,987,534	1,501,485	1,600,250

9. Maintenance and Depreciation	$9,236,201	$9,262,300	$9,560,136	$10,810,280
10. Traffic Expenses	13,331,424	13,857,311	13,331,424	13,857,311
11. Commercial Expenses	4,693,321	4,867,508	4,693,321	4,867,508
12. General Expenses	1,101,412	1,091,053	1,101,412	1,091,053
13. Taxes Assignable to Telephone Operations	3,996,097	4,585,718	3,996,097	4,585,718
14. Other Deductions	443,664	523,326	443,664	523,326
15. Total Deductions	34,602,199	37,187,216	33,116,056	35,535,206
16. Amount Available for Return	7,084,867	7,399,977	8,929,961	9,439,271
17. Additional Amount included for Return (see note)	.....	.....	575,062	608,767
18. Total Available for Return	7,084,867	7,399,977	9,505,023	10,048,038
19. Amount reserved for Refunds under Temp. Injunction Order	1,719,624	1,765,544	1,719,624	1,765,544
20. Balance Available for Return (NET INCOME)	$5,365,243	$5,634,433	$7,785,399	$8,282,494
Rate Base			$108,956,952	$121,005,402
Rate of Return—before including additional amount (line 16)			8.20%	7.80%
Rate of Return—after including additional amount (line 18)			8.72%	8.30%
Rate of Return—after deducting provision for refund (line 20)			7.15%	6.84%

Note: This item represents benefits accruing to the owners or stockholders by reason of their exemption from Federal Income Taxes on the net income from their property. This tax exemption is, therefore, in effect, part of the return on the investment.

Commission's Exhibit 17

COMMISSION'S EXHIBIT 18.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

RATE OF RETURN ON ORIGINAL COST.

(Based on the assumption that the Illinois Commerce Commission Order of August 16, 1923 was effective as of January 1, 1922.)

	1922	1923
	(1)	(2)
Original Cost of Average Plant in Service during year	$ 81,226,911	$ 93,561,584
Average Construction Work in Progress during year	4,117,866	1,783,172
Add:		
Overheads omitted from books	5,000,000	5,000,000
Working Capital	3,000,000	3,000,000
Total Original Cost—Undepreciated	$ 93,344,777	$103,345,076
Less:		
Accrued Depreciation (a)	23,957,736	25,437,857
(Represented by Depreciation and Amortization Reserves.)		
Total Original Cost—Less Accrued Depreciation	$ 69,387,041	$ 77,907,181
Adjusted Net Income—Based on findings and rates prescribed by Commission's Order. (Includes also, Federal Income Tax Adjustment)	$ 6,977,958	$ 7,248,193
Rate of Return on Original Cost—Undepreciated	7.48%	7.01%
Rate of Return on Original Cost—Less Accrued Depreciation	10.06%	9.30%

(a) Average balance, with accruals since Jan. 1, 1922 adjusted to comply with Ill. C. C. Order of 8-16-23.

COMMISSION'S EXHIBIT 19.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

RATE OF RETURN ON ORIGINAL COST.

(Based on Illinois Commerce Commission Order, effective October 1, 1923.)

	1924	1925
	(1)	(2)
Original Cost of Average Plant in Service during year	$105,242,532	$117,625,091
Average Construction Work in Progress during year	889,824	2,165,239
Add:		
Overheads omitted from books	5,000,000	5,000,000
Working Capital	3,000,000	3,000,000
Total Original Cost—Undepreciated	$114,132,356	$127,790,330
Less:		
Accrued Depreciation (a) (Represented by Depreciation and Amortization Reserves.)	29,372,637	30,981,801
Total Original Cost—Less Accrued Depreciation	$ 84,759,719	$ 96,808,529
Adjusted Net Income—Based on findings and rates prescribed by Commission's Order. (Includes also, Federal Income Tax adjustment)	$ 7,785,399	$ 8,282,494
Rate of Return on Original Cost—Undepreciated	6.82%	6.48%
Rate of Return on Original Cost—Less Accrued Depreciation	9.19%	8.56%

(a) Average balance, with accruals since Oct. 1, 1923, adjusted to comply with Ill. C. C. Order of 8-16-23.

COMMISSION'S EXHIBIT 20.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.
COMPARISON OF OPERATING REVENUES

Four Years—January 1, 1922 to December 31, 1925.

	Year ended Dec. 31, 1922	Year ended Dec. 31, 1923	Year ended Dec. 31, 1924	Year ended Dec. 31, 1925
TELEPHONE OPERATING REVENUES:				
Exchange Service Revenues:				
500—Subscribers' Station Revenues	$30,600,014	$32,927,998	$35,010,425	$37,388,585
501—Public Pay Station Revenues	2,926,043	3,143,498	3,485,734	3,612,666
504—Private Exchange Lines	92,978	111,545	119,698	144,337
505—Minor Rents of Exchange Plant	201,998	159,185	57,900	70,702
Total Exchange Service Revenues	33,821,033	36,342,226	38,673,757	41,216,290
Toll Service Revenues:				
510—Message Tolls	2,408,918	2,711,954	3,176,639	3,780,706
512—Leased Toll Lines	169,048	188,712	196,419	207,201
514—Telegraph Service on Toll Lines	78,022	142,328	167,797	196,557
516—Other Toll Line Revenues	.....	.....	.....	.....
Total Toll Service Revenues	2,655,988	3,042,994	3,540,855	4,184,464
Miscellaneous Operating Revenues:				
520—Messenger Service	1,493	1,839	1,359	1,761
521—Telegraph Commissions	34,456	36,703	39,189	43,759
523—Advertising and Directory	333,686	382,966	408,099	415,253
524—Rents from other Operating Property	233,199	177,543	209,760	208,258
525—Other Miscellaneous Revenue	62,483	73,998	85,965	117,615
Total Misc'l Operating Revenues	665,317	673,049	744,372	786,646
Total Op'rg Rev. before deducting Acct. 527	37,142,338	40,058,269	42,958,984	46,187,400
527—(Less) Licensee Revenue—Dr.	1,606,810	1,724,251	1,860,436	1,987,534
Total Telephone Operating Revenues	$35,535,528	$38,334,018	$41,098,548	$44,199,866

COMMISSION'S EXHIBIT 21.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.
COMPARISON OF OPERATING EXPENSES

Four Years—January 1, 1922 to December 31, 1925.

	Year ended Dec. 31, 1922	Year ended Dec. 31, 1923	Year ended Dec. 31, 1924	Year ended Dec. 31, 1925
TELEPHONE OPERATING EXPENSES:				
Maintenance Expenses:				
1—Supervision of Maintenance	$ 410,097	$ 434,605	$ 615,364	$ 616,927
2—Repairs of Aerial Plant	440,907	510,446	525,535	527,804
3—Repairs of Underground Plant	358,207	391,014	446,738	482,656
4—Repairs of Central Office Equipment	1,429,927	1,777,294	1,763,640	1,937,694
5—Repairs of Station Equipment	1,224,537	1,383,538	1,450,655	1,558,043
6—Repairs of Buildings and Grounds	186,731	155,186	181,556	174,184
7—Station Removals and Changes	1,039,040	1,248,045	1,331,861	1,574,426
8—Depreciation of Plant and Equipment	3,739,869	4,480,954	4,709,950	5,385,712
10—Other Maintenance Expenses	260	1,605	10,982	4,854
Total Maintenance Expenses	8,829,575	10,382,687	11,036,281	12,262,300
Traffic Expenses:				
21—Traffic Superintendence	560,194	549,776	691,778	747,183
22—Service Inspection	97,661	104,255	120,633	145,123
23—Clerical Operating Wages	239,027	225,922	248,849	265,179
24—Operators' Wages	9,019,928	9,778,186	10,448,587	10,959,435
25—Rest and Lunch Rooms	741,684	864,949	304,891	156,914
27—Operators' Schooling	373,552	527,358	441,712	478,395
28—Transmission Power	121,865	134,090	140,164	147,117
29—Central Office Stationery and Printing	41,803	58,969	61,342	71,281
30—Messenger Service	1,155	1,213	1,364	1,093
31—Miscellaneous Central Office Expenses	498,365	549,986	574,285	581,548
32—Pay Station Expenses	168,427	165,143	178,997	180,639
33—Other Traffic Expenses	121,745	232,943	118,822	123,404
35—Leased Line Operating Expenses	.....	.....	.....	.....
Total Traffic Expenses	11,985,406	13,192,673	13,331,424	13,857,311
Commercial Expenses:				
40—Commercial Administration	718,695	753,804	805,068	768,650
42—Advertising	105,214	97,295	106,509	97,233
43—Canvassing	64,297	55,273	67,668	69,032
46—Revenue Accounting	627,524	663,959	768,590	809,747
47—Revenue Collecting	798,261	872,540	982,993	1,046,865
48—Pay Stations Commissions	883,027	994,090	1,086,047	1,132,708
49—Directory Expenses	789,000	765,000	876,000	943,200
50—Other Commercial Expenses	100	312	446	73
Total Commercial Expenses	3,986,118	4,202,273	4,693,321	4,867,508

(Continued on following page.)

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.
COMPARISON OF OPERATING EXPENSES

Four Years—January 1, 1922 to December 31, 1925.

	Year ended Dec. 31, 1922	Year ended Dec. 31, 1923	Year ended Dec. 31, 1924	Year ended Dec. 31, 1925
TELEPHONE OPERATING EXPENSES (Continued):				
General and Miscellaneous Expenses:				
661—Salaries of General Officers	$ 90,465	$ 93,199	$ 105,197	$ 106,702
662—Salaries of General Office Clerks	172,160	175,479	190,747	214,220
664—Expenses of General Officers and Clerks	20,245	24,524	20,189	21,648
665—General Office Stationery and Printing	16,464	16,202	19,277	21,153
666—Other General Office Supplies and Expenses	26,602	24,738	25,655	26,614
667—General Law Expenses	40,873	53,301	40,070	45,870
668—Insurance	52,328	4,578•	19,480	24,374
669—Accidents and Damages	47,851	43,313	45,647	50,855
670—Law Expenses Connected with Damages	6,092	6,357	4,158	5,130
672—Relief Department and Pensions	428,637	539,035	490,927	511,372
673—Telephone Franchise Requirements	211,776	216,321	235,527	238,171
675—Other General Expenses	216,991	141,040	197,009	125,700
Gross General and Miscellaneous expenses	1,330,484	1,328,931	1,393,883	1,391,811
676—Telephone Franchise Requirements—Cr.	194,465	197,392	215,746	216,273
690—Charges to Construction—Cr.	59,565	68,345	76,725	84,484
Net General and Miscellaneous Expenses	1,076,454	1,063,194	1,101,412	1,091,053
Total Telephone Operating Expenses	$25,877,553	$28,840,827	$30,162,438	$32,078,172

•Red figures.

COMMISSION'S EXHIBIT 22.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

TELEPHONE STATIONS IN SERVICE

As of December 31, 1922, to December 31, 1925.

	1922	1923	1924	1925
PRIVATE BRANCH EXCHANGES	140,478	154,615	170,208	186,508
INDIVIDUAL LINES:				
Public Main Stations	10,122	11,082	12,015	13,037
Business Main Stations—Coin Box	14,613	14,968	17,767	19,700
—Message Rate	46,595	50,686	53,688	56,731
Residence Main Stations—Coin Box	106	3,596	4,461	5,426
—Message Rate	23,597	28,363	32,653	38,159
TWO PARTY LINES:				
Business Main Stations—Coin Box	30,279	29,449	29,498	28,884
Residence Main Stations—Coin Box	9,849	12,278	14,348	16,008
—Message Rate	11,865	23,339	35,947	53,299
FOUR PARTY LINES:				
Residence Main Stations—Coin Box	307,665	317,480	323,136	322,835
EXTENSIONS	43,525	45,689	48,215	50,177
TOTAL COMPANY STATIONS	638,694	691,545	741,936	790,764
AVERAGE NUMBER OF COMPANY STATIONS FOR PERIOD	615,789	660,927	714,993	762,024

COMMISSION'S EXHIBIT 23.

TABLE 106.—PUBLIC FINANCE, INTEREST RATES, AND BOND

YEAR AND MONTH	BOND YIELD 15 utilities (3) Per cent
1913 monthly av.	4.94
1914 monthly av.	4.87
1915 monthly av.	4.88
1916 monthly av.	4.79
1917 monthly av.	5.09
1918 monthly av.	5.76
1919 monthly av.	5.84
1920 monthly av	6.73
1921 monthly av.	6.56
1922 monthly av.	5.46
1923 monthly av.	5.41
1924 monthly av.	5.22
1925 monthly av.	5.06
1926 monthly av.	4.90
1927 monthly av.	4.78
1928 monthly av.	4.68
1927	
September	4.75
October	4.75
November	4.76
December	4.72
1928	
January	4.68
February	4.65
March	4.62
April	4.56
May	4.57
June	4.66
July	4.68
August	4.73
September	4.73
October	4.74
November	4.73
December	4.77

3Compiled by the *Standard Statistics Co.* representing arithmetic averages of the yields to maturity on the individual high-grade bonds, calculated from averages of the high and low prices of the month. For the year 1914, when the exchanges were closed for several months, the average for railroad bonds excludes the months of August through October, the averages for industrials and public utilities exclude August through November, and the average for municipals excludes August through December.

COMMISSION'S EXHIBIT 24.

TABLE 108.—STOCK PRICE INDEXES BY GROUPS AND YIELDS.[1]

YEAR AND MONTH	YIELDS, Industrials	
	Common	High grade pref.
	Per cent	
1923 mo. av.	6.63	6.12
1924 mo. av.	6.02	6.08
1925 mo. av.	5.31	5.90
1926 mo. av.	5.25	5.78
1927 mo. av.	5.25	5.51
1928 mo. av.	4.43	5.35
1926		
September	5.24	5.81
October	5.40	5.82
November	5.42	5.78
December	5.28	5.67
1927		
January	5.64	5.65
February	5.64	5.60
March	5.60	5.57
April	5.50	5.54
May	5.40	5.49
June	5.34	5.50
July	5.25	5.52
August	5.12	5.48
September	4.90	5.45
October	5.02	5.45
November	4.86	5.43
December	4.69	5.40

(Continued on p. 32)

1928		
January	4.66	5.33
February	4.73	5.34
March	4.63	5.28
April	4.69	5.18
May	4.36	5.21
June	4.53	5.32
July	4.56	5.40
August	4.44	5.43
September	4.27	5.41
October	4.27	5.44
November	3.99	5.42
December	4.25	5.43

[1]Compiled by the *Standard Statistics Co., Inc.*, and represent long term indexes of common-stock market values weighted according to the number of shares of each stock outstanding, computed as of the close each Friday, and presented in relatives with the 1926 monthly average taken as equal to 100. Weekly indexes have been averaged to give monthly data. Other groups not published here, but included in the total, comprise agricultural implements, automobile parts and accessories, electrical equipment, lead and zinc mining and smelting, radio, etc., building equipment, miscellaneous textiles, apparel, shoes, leather, chemicals, fertilizers, meat packing, sugar refining, and miscellaneous. This series and comparable data appearing in the November, 1928, issue (No. 87), p. 24, displace any common-stock price indexes shown in the previous issues of the SURVEY OF CURRENT BUSINESS. Industrial stock yeilds have been computed by dividing the total annual dividend rate each month by the total of monthly prices, using the average of high and low monthly stock prices. Only such stocks as have paid some dividend every year since 1914 have been included in the common grouping; extra cash dividends, on an annual basis, are added to regular dividends and are considered to be part of such regular dividends, while stock dividends are disregarded, as such adjustments are largely cared for in the market price of the stock. As preferred stocks have various dividend rates, all prices have been adjusted to an equivalent 7 per cent basis and $100 par previous to averaging.

COMMISSION'S EXHIBIT 26.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

COMPARISON OF THE COST OF OPERATING MANUAL AND MACHINE SWITCHING (DIAL) EQUIPMENT.

	1924.		1925.		1926.		1927.	
	Manual.	Dial.	Manual.	Dial.	Manual.	Dial.	Manual.	
Average No. stations served	687,996	36,996	726,741	35,282	759,412	56,110	803,125	
604—Repairs of Central Office Equipment:								
Codes 7R and 97R	$ 884,899	$ 161,448	$ 891,350	$ 186,197	$ 1,061,715	$ 199,567	$ 1,210,295	
" 7M " 97M	649,173	19,045	758,618	26,517	931,689	39,611	714,974	
" 107M " 197M	.....	.....	.....	.....	.....	.....	137,973	
" 307R&M " 87R&M	.....	.....	.....	.....	.....	.....	.....	
Total of above Codes (a)	1,534,072	171,493	1,649,968	213,914	1,993,404	239,178	2,063,262	
Repairs of C. O. Eqpt. per Station	2.23	6.35	2.27	6.04	2.62	4.26	2.57	
608—Depreciation @ 6.9% and 5.3%	1,558,787	321,548	1,772,517	379,021	2,056,011	460,174	2,310,151	
Depreciation per Station	2.26	11.91	2.44	10.71	2.71	8.20	2.88	
623—Clerical Operating Wages	241,320	7,528	256,837	8,212	259,727	13,746	234,349	
624—Operators' Wages	9,932,105	164,754	10,373,933	285,467	10,695,045	281,492	10,225,851	
Total 623 & 624	10,173,425	172,282	10,630,770	293,509	10,954,772	294,238	10,460,200	
Clerical and Operators' Wages per Station	14.79	6.38	14.63	5.78	14.42	5.24	13.02	
Total of above accounts per station	19.28	24.64	19.34	22.56	19.75	17.70	18.47	

(a) Excluding repairs of other equipment of Central Offices and repairs of Lunch Rooms and Operators' Quarters.

COMMISSION'S EXHIBIT 26.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION.

COMPARISON OF THE COST OF OPERATING MANUAL AND MACHINE SWITCHING (DIAL) EQUIPMENT.

	1924.		1925.		1926.		1927.		1928.	
	Manual.	Dial.	Manual.	Dial.	Manual.	Dial.	Manual.	Dial.	Manual.	Dial.
.....	687,996	26,996	726,741	35,282	759,412	56,110	803,125	70,097	833,026	84,879
.....	$ 884,899	$ 161,448	$ 891,350	$ 186,497	$ 1,061,715	$ 199,567	$ 1,210,295	$ 207,596	$ 1,196,662	$ 299,354
.....	649,173	10,045	758,618	26,517	931,689	39,611	714,974	44,232	769,082	74,441
.....	.....	.....	.....	.....	.....	.....	137,973	39,059	164,193	25,954
.....	.....	.....	.....	.....	.....	.....	.....	.....	116,497	9,215
.....	1,534,072	171,493	1,649,968	213,014	1,993,404	239,178	2,063,262	290,887	2,246,434	408,964
.....	2.23	6.35	2.27	6.04	2.62	4.26	2.57	4.15	2.70	4.82
.....	1,558,787	321,548	1,772,517	379,021	2,056,011	460,174	2,310,151	494,630	2,470,167	630,508
.....	2.26	11.91	2.44	10.74	2.71	8.20	2.88	7.06	2.96	7.43
.....	241,320	7,528	256,837	8,342	259,727	12,746	234,349	16,291	363,865	27,336
.....	9,932,105	164,754	10,373,933	195,467	10,695,045	281,492	10,225,851	306,607	10,232,719	376,820
.....	10,173,425	172,282	10,630,770	203,809	10,954,772	294,238	10,460,200	322,898	10,596,584	404,156
.....	14.79	6.38	14.63	5.78	14.42	5.24	13.02	4.61	12.72	4.76
.....	19.28	24.64	19.34	22.56	19.75	17.70	18.47	15.82	18.38	17.01

of Central Offices and repairs of Lunch Rooms and Operators' Quarters.

11770

INTERSTATE COMMERCE COMMISSION

No. 14700

DEPRECIATION CHARGES OF TELEPHONE COMPANIES

No. 15100

DEPRECIATION CHARGES OF STEAM RAILROAD COMPANIES

Submitted April 19, 1924. Decided November 2, 1926

1. Proceedings instituted under paragraph (5) of section 20 of the interstate commerce act, as amended February 28, 1920, which requires the commission as soon as practicable to prescribe, for carriers subject to the act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose.
2. With the exception of land and grading, most property units which make up the plant of a railroad or telephone company are gradually worn out in operation or are abandoned from time to time in favor of better substitutes.
3. The cost of property thus consumed or abandoned is plainly a part of the cost of rendering service and the accounts should conform to and adequately record this fact.
4. The contention that the retirements of most units of a large composite railroad or telephone property tend to equalize, i. e., become the same in amount from year to year, is not adequately supported by data of record. The evidence indicates that the opposition to depreciation accounting is based partly on a desire to adjust retirement charges from year to year in accordance with financial needs.
5. The cost of rendering service involved in the consumption or abandonment of depreciable units of property is not adequately recorded when no account is taken of this cost prior to the time of retirement of such units. An adequate record requires proportionate, periodical charges, i. e., depreciation charges, throughout the service lives of the units.
6. The depreciation reserve is a record of the undoubted fact that the service lives of existing depreciable property units have to a certain extent been consumed.
7. Depreciation accounting is a necessary measure of self-protection to the carriers, in view of the decisions of the Supreme Court of the United States to the effect that accrued depreciation must be deducted in determining the rate base.
8. All things considered, depreciation accounting in the long run is less burdensome than retirement accounting to patrons and investors. It conforms to the principles of conservative and constructive finance.

19018°—26——1

9. Future service lives can be estimated with sufficient accuracy, subject to public supervision and to modification and correction from time to time, to meet the needs of depreciation accounting.
10. No good purpose is served, so far as depreciation accounting is concerned, by attempting to distinguish between present and future patrons and their interests. The purpose of depreciation accounting is to charge the cost of current consumption of property in service against the current users of the property. But the method of spreading such cost over a period subsequent to the retirement of the property is available for use in emergencies.
11. The need for depreciation accounting is emphasized by the provisions of section 15a of the interstate commerce act relative to the recapture by the Government of excess income and by the existing situation with respect to the public regulation of both steam railroad and telephone companies.
12. Depreciation accounting is supported by prior decisions of the commission in valuation proceedings, by decisions of the United States Supreme Court, and by the decisions of other courts and of Federal and State commissions. It is also in general accord with the provisions which at the present time are embodied in the accounting classifications of steam railroad companies and telephone companies and which were included in those classifications when section 20 of the act was amended.
13. The provisions of paragraph (5) of section 20 of the act specifically empower the commission to require and prescribe the amount of depreciation charges. The general power to prescribe a uniform system of accounts also implies and includes power to require accounting for depreciation.
14. Telephone property, although used largely for local business, is subject to Federal regulation when it is subject to interstate use.
15. Depreciation accounting for telephone companies, classes A, B, and C, is practicable, but the determination of depreciation percentages for the various classes of telephone property is a task as to which the commission may well avail itself of the cooperation, services, records, and facilities of State commissions, under the provisions of paragraph (3) of section 13 of the interstate commerce act.
16. Depreciation is the loss in service value not restored by current maintenance other than extraordinary repairs and incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy.
17. Depreciation expense is based upon the original cost of the property in question to the accounting company, and depreciation accounting requires an analysis of the investment and apportionment of appropriate amounts to the primary accounts covering depreciable property, under road and equipment for steam railroads and under fixed capital for telephone companies. The accounts of the steam railroad companies in general now furnish no adequate record of property costs, but the deficiency may be supplied, with sufficient accuracy for the purposes of depreciation accounting, by appropriate use of the inventories of our Bureau of Valuation. Rules prescribed accordingly for the distribution of the investment account of steam railroads. It appears that the investment

accounts of telephone companies are, in general, sufficiently adapted to such accounting; but if it should develop that they are not so adapted, this matter can then be dealt with.

18. The total expense of depreciation in connection with any unit of property is its service value determined by taking into consideration ledger value, net salvage value, and extraordinary repairs, as these terms are defined in the report. The cost of removing property or recovering salvage at time of retirement should be deducted in determining net salvage value. The retirement of continuous structures such as fences, snowsheds, etc., and of certain other units of property such as equipment, is postponed either materially or indefinitely by the application of piecemeal renewals or rebuilding programs, both of which are termed in the report "extraordinary repairs." It is essential to a properly comprehensive system of depreciation accounting that provision be made in the reserve for such extraordinary repairs.

19. Property once acquired should remain in the plant account at its cost until it is finally abandoned or is put to a new use different from that for which it was originally installed.

20. The sinking-fund and straight-line methods of accounting for depreciation compared and for reasons stated the latter approved.

21. The various classes of telephone and steam railroad property considered and their depreciable nature discussed. Classes of property found subject to depreciation specified.

22. The unit and group plans of accounting for depreciation compared and the latter approved. Groups of property and reserves applicable thereto should correspond with the primary accounts in road and equipment of steam railroads and of fixed capital of telephone companies, including improvements on leased railway property. Operating companies must also account for depreciation charges on leased property.

23. Impossible to prescribe uniform depreciation percentages for the various classes of depreciable property, applicable to all companies alike. Method of determining depreciation percentages for individual companies prescribed, cooperation with the State commissions in the supervision of this matter being provided for in the case of telephone companies. Both classes of companies required to keep adequate property records and maintain in convenient and accessible form engineering data bearing upon prospective service lives.

24. Some classes of property are of such a character that it is not practicable to keep individual unit costs. In determining the debits and credits to the various accounts under depreciation accounting, amounts for specific units to be used so far as practicable; but where that is impracticable, average amounts to be used.

25. While certain causes of the retirement of property are not factors to be included in the estimate of depreciation charges, all losses at time of retirement required to be charged to the depreciation reserve, with provisions for compensating adjustments where necessary.

26. The amount of accrued depreciation not previously accounted for by steam railroads, as of the date depreciation accounting for fixed property becomes effective, required to be computed and shown in the accounts in accordance with a prescribed method of adjustment.

27. The cost of extraordinary repairs when made and the service value of property when retired required to be charged to the appropriate primary accounts under maintenance expenses and concurrently corresponding

amounts released from the depreciation reserve to special credit accounts provided for that purpose under maintenance expenses.

28. Each carrier required to include in its annual reports to the commission a sworn statement showing by primary accounts the extent to which ordinary maintenance has been neglected or deferred.

29. Depreciation accounting, as prescribed in the report, ordered to become effective January 1, 1928.

W. G. Brantley, *Sanford Robinson*, *Thomas W. Hulme* and *Leslie Craven* for presidents' conference committee on Federal valuation of railroads in United States; *Ben B. Cain*, *Moultrie Hitt*, and *George H. Parker* for American Short Line Railroad Association; *W. S. Bronson* for Chesapeake & Ohio Railway Company and Hocking Valley Railway Company; *E. G. Dorety* and *Fletcher Rockwood* for Great Northern Railway Company; *W. A. Colston*, *Lewis A. Bell*, and *W. J. Bergen* for New York, Chicago & St. Louis Railroad Company; *C. H. Blatchford* and *A. J. Raynes* for Maine Central Railroad Company; *F. W. Charske* and *H. A. Scandrett* for Union Pacific system; *A. D. McDonald* and *Fred H. Wood* for Southern Pacific Company; *G. H. Burgess* for Delaware & Hudson Company; *George H. Parker* for Spokane & Eastern Railway Company.

C. M. Braeelen and *E. S. Wilson* for Bell system companies; *C. B. Randall*, *Harold L. Beyer*, and *F. B. MacKinnon* for United States Independent Telephone Association; *Carl D. Jackson* for Wisconsin State Telephone Association; *Jay G. Mitchell*, *A. R. Bone*, *C. B. Cheadle*, and *R. E. Gordon* for Illinois Telephone Association; *J. Prince Webster* for Georgia Association of Independent Telephone Companies; *W. G. Brorein* and *A. B. Steuart* for Florida Telephone Association; *C. B. Cheadle* for Dixon Home Telephone Company and Cheadle-Sterrett group of telephone companies; *H. E. Bradley* for Pennsylvania State Telephone & Traffic Association; *George R. Fuller* for Up-State (New York) Telephone Association and Rochester Telephone Corporation; *H. L. Harris* for Missouri Telephone Association and Kansas City Telephone Company; *J. B. Earle* for Texas Independent Telephone Association and Texas Telephone Company; *Charles C. Deering* for Iowa Independent Telephone Association; *Harold L. Beyer* for Interior Telephone Company and What Cheer Telephone Company; *Perry C. Holdoegel* for Central Mutual Telephone Company; *Frank L. Beam* for Mount Vernon Telephone Company, Millersburg, Wooster & Orrville Telephone Company, Licking Telephone Company, and Union County Telephone Company; *Gustave Hirsch* for Conneaut Telephone Company; *L. R. Wittemire* and *Gustave Hirsch* for Mansfield Telephone Company; *R. A. Mattison* for Lincoln Telephone & Telegraph Company; *George W. Robinson* for Tri-State Telephone & Telegraph Company; *Edward M. Prisk* for Consolidated Telephone Company;

John H. Wright for Jamestown Telephone Corporation, Meadville Telephone Company, and Eastern Crawford Telephone Company; *Edwin D. Schade* for Jamestown Telephone Company; *Charles E. Archer* for Louisville Home Telephone Company, Central Home Telephone & Telegraph Company, and Independent Long Distance Telephone & Telegraph Company; *Hart V. Farwell* for Citizens Independent Telephone Company, Kinloch-Bloomington Telephone Company, and Wabash Valley Telephone Company.

J. W. West, jr. for Virginia State Corporation Commission; *John P. Petty* for Public Utility Commissioners of State of New Jersey; *Warren Stoutnour* for Public Utilities Commission of Utah; *McGregor Smith* for Tennessee Railroad and Public Utilities Commission; *William W. Potter* and *Manfred K. Toeppen* for Michigan Public Utilities Commission; *Frank Harper*, *H. Carl Wolf*, and *W. F. Strouse* for Public Service Commission of Maryland; *Ledyard P. Hale* and *Charles G. Blakeslee* for Public Service Commission of State of New York; *W. M. Hammond* for Illinois Commerce Commission; *Thorne A. Browne*, *J. W. Greenleaf*, *A. B. Green*, *Ivan Bowen*, *Warren Stoutnour*, *R. Hudson Burr*, *Dwight N. Lewis*, and *John E. Benton* for National Association of Railway and Utilities Commissioners; *William P. Ellis* and *John E. Benton* for Public Service Commission of Oregon; *George C. Mathews*, *Lewis E. Gettle*, *Adolph Kanneberg*, and *Andrew R. McDonald* for Railroad Commission of Wisconsin; *Francis X. Busch*, *Butler*, *Lamb*, *Foster* and *Pope*, *Stephen A. Foster*, and *Karl D. Loos* for city of Chicago; *George P. Nicholson*, *M. Maldwin Fertig*, and *Milo R. Maltbie* for city of New York.

Ralph R. Bradley, *Arthur W. Brady*, *Frank Karr*, *William H. Maltbie*, and *Charles L. Henry* for American Electric Railway Association; *Sherman & Sterling*, *William L. Ransom*, *John A. Garver*, *C. E. Williams*, and *Robert A. Carter* for Consolidated Gas Company of New York; *Carl D. Jackson* and *J. D. Van Wagoner* for National Electric Light Association and American Gas Association, interveners in No. 15100.

G. S. Fernald for Pullman Company; *Ralph H. Kimball* for Western Union Telegraph Company; *P. J. Lucey* for Insull Utility Properties; and *Nathan Matthews* for himself.

REPORT OF THE COMMISSION

EASTMAN, *Chairman:*

These proceedings, instituted upon our own motion, arise out of provisions of paragraph (5) of section 20 of the interstate commerce act, as amended February 28, 1920, reading as follows:

> The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which depreciation charges may prop-

erly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses.

To carry out these provisions we organized a depreciation section in our Bureau of Accounts with instructions to make a preliminary investigation, with respect to each class of carriers, and report its tentative conclusions and recommendations. In pursuing its inquiry the depreciation section sought the cooperation of the carriers, of the State commissions, and of all others interested in the subject. Each carrier of every class was called upon to submit information based upon its past experience, as well as its views with respect to classes of depreciable property and percentages of depreciation. In the case of telephone companies, committees representing the United States Independent Telephone Association and the Illinois Independent Telephone Association were appointed to cooperate with the depreciation section. The Bell system was represented by the comptroller of the American Telephone & Telegraph Company. A committee was also appointed by the National Association of Railway and Utilities Commissioners. In the case of the steam railroads, a committee for purposes of cooperation was selected by the Railway Accounting Officers' Association in conjunction with the presidents' conference committee on valuation, the American Short Line Railroad Association being also represented.

As a result of its preliminary investigations, the depreciation section issued a tentative report in No. 14700 upon the depreciation charges of telephone companies on March 10, 1923, and a similar tentative report in No. 15100 upon the depreciation charges of steam railroad companies on August 23, 1923. These tentative reports were widely distributed, and in both cases were used as the basis for public hearings at which all interested parties were given opportunity to submit evidence. Following these hearings, the two proceedings were jointly assigned for argument before the entire commission.

The National Electric Light Association, the American Gas Association, and the Consolidated Gas Company of New York were given leave to intervene in No. 15100 and presented evidence at the

hearing in that proceeding. The American Electric Railway Association was also permitted to intervene, but presented no evidence. Briefs were filed in one or both proceedings, not only by the carriers involved, but also by the intervening associations and company, by the special committee representing the National Association of Railway and Utilities Commissioners, by various individual State Commissions, by the city of New York and the city of Chicago, and by the Insull Utility Properties.

The hearings developed a wide and striking difference of opinion upon a basic question partly of fact and partly of theory. This question is of such controlling importance that we shall discuss it at the outset. It must be determined before the numerous questions of law to which the proceedings have given rise can profitably be discussed. Representative of the opposing views are the position of the telephone companies, on the one hand, and the position of the railroad, gas, and electric light companies, on the other hand.

THE OPPOSING VIEWS

The telephone view.—The position of the telephone companies, briefly stated, is that the ultimate expense of furnishing service includes the cost of everything used up in the process, whatever it may be. It includes the cost of things that are used up slowly, such as automobiles, switchboards, buildings, pole lines, and other items of plant, just as inevitably as it includes the cost of things that are used up rapidly, such as labor, gasoline, coal, lead pencils, paper, and the like. As we understand the view of these companies, depreciation expense represents the cost incurred during an accounting period in the process of using up in service items of physical property whose lives extend over more than one such period, regardless of how they are used up. This cost is a part of, and should be shown in, operating expense; it should be shown when it is incurred, and it is incurred throughout the life of the property in service. It should, therefore, be charged to operating expense in periodical installments throughout this service life. Replacements, these companies say, do not measure depreciation expense, for it is determined by the amount and cost of the property used up. It exists whether or not the property is replaced, and is incurred regardless of whether depreciation charges are accrued. Such charges should be made in order that the accounts may properly record the facts. As the result of making them a reserve will be created which will, if the charges have been accurately estimated, at any time equal the loss in existing property due to the process of consumption in service. This reserve protects the integrity of the investment.

The railroad view.—The position of the steam railroad,[1] gas, and electric light companies, stated briefly, is that a railroad or public utility property is a composite of many separate units and should be so considered with respect to depreciation. While most of these separate units have terminable lives and are worn out in service or abandoned from time to time for better substitutes, there is no depreciation in the composite property so long as it is well maintained. Maintenance is the making of needed repairs and replacements. If properly maintained, the railroads say, the composite property does not depreciate or lessen in value or service ability. In fact it may be worth more to a prospective purchaser when seasoned by long-continued operation than when new. No reserve is needed to protect the integrity of the investment, but the creation of such a reserve may be desirable to spread the cost of retiring certain large units of property and prevent a disproportionate burden upon the operating expenses of any one year. In the case of a large, composite property which has "struck its gait," it is claimed that retirements of most property units are about the same in amount from year to year, so that there is no need for such an equalizing reserve. In the case of the larger units, there may be such need, but the reserve should be called a "retirement" rather than a "depreciation" reserve.[2] Its amount is not a matter of mathematical compu-

[1] The returns to the questionnaire sent out by the depreciation section indicate that not all of the steam railroads may be of the same mind, but these differences of opinion were not developed at the hearings.

[2] The method of accounting advocated by the gas and electric light companies is illustrated by the uniform classification of accounts for such companies which was approved in 1920 by the National Association of Railway and Utilities Commissioners, and revised in minor respects in 1922. In it no mention is made of "depreciation," but provision is made for a "retirement reserve," as follows:

"To this account shall be credited such amounts as are charged to Operating Expense Account 'Retirement Expense,' appropriated from surplus, or both, to cover the retirement loss represented by the excess of the original cost, plus cost of dismantling, over the salvage value of fixed capital retired from service. When any fixed capital is retired from service, the original cost thereof (estimated if not known, and where estimated, the facts on which the estimate is based should be stated in the entry) should be credited to the proper fixed capital account and charged, plus the cost of retirement, less salvage, to this account. If the credit balance in this account is insufficient to cover the retirement loss, the excess over the balance contained in the reserve should be charged to account No. 132, 'Property Abandoned,' which see, or other appropriate account.

"The losses which this account is intended to cover are those incident to important retirements of buildings, of large sections of continuous structures, like electric line, or of definitely identifiable units of plant or equipment, and the purpose of the account is that the burden of such losses may be as nearly as is practicable equalized from year to year, but with due regard for amount of earnings available for this purpose in each year."

In the classification of operating expenses provision is made for a corresponding "retirement expense" account, as follows:

"This account shall include such amounts in addition to appropriations from surplus to retirement reserve, as the accounting company may determine to be necessary to provide a reserve against which may be charged the original cost of all property retired from service plus the cost of dismantling, less salvage. The amounts charged

tation from theoretical service lives, but rather a matter of judgment. Where property is unexpectedly retired, not because it has been worn out, but because some more efficient substitute has been developed, the cost of retirement should be spread, not over the past, but over the future, so that the burden may fall upon those who gain the benefit from the enhanced efficiency. The ascertainment of service lives, upon which what the gas and electric companies call "theoretical depreciation charges" are dependent, is, they say, a wholly impracticable undertaking requiring a knowledge of the future which no one has. It is contended that the making of such depreciation charges merely results in the accumulation of a huge reserve which will in time fluctuate around 50 per cent of the recorded investment; that such a reserve serves no useful purpose; and that it is a burden both upon the patrons of the company and upon the investors in its securities. If it were to be assumed that the composite property would at a certain time come to the end of its life, there might be need for such a reserve, but in most cases such properties may for all practical purposes, it is asserted, be regarded as perpetual.

ANALYSIS OF THE OPPOSING VIEWS

The question raised by this divergence of opinion merits the most careful consideration. There is general agreement that, with the exception of land and grading, most of the property units which make up the plant of a railroad or telephone company are gradually worn out in operation or are abandoned from time to time in favor of better substitutes. There also can be no doubt that the cost of such worn-out or abandoned property units is a part of operating expense to be charged against the service. The basic question is whether such cost should be charged in bulk at the time when each unit is retired, or should be anticipated by periodical installments spread over its service life.

Before analyzing the opposing views, certain matters should be mentioned which have a bearing upon the contentions of the railroad, gas, and electric companies.

The equipment reserves.—As will later appear in more detail, we have required the steam railroad companies to accrue depreciation upon equipment. As a result they have accummulated depreciation reserves for equipment which, on December 31, 1922, amounted, all told, in the case of the Class I roads, to $1,181,383,728. The brief

to this account, or appropriated from surplus, and credited to the 'Retirement Reserve' shall be in addition to the necessary costs of keeping the plant and equipment in a high state of efficiency, through charges to the regular maintenance accounts."

While this classification has been adopted by a considerable number of State commissions, it appears that certain of those which have adopted it have made modifications so as to provide for depreciation accounting.

filed in behalf of the presidents' conference committee, after stating that the hearings in No. 15100 did not "include any such full and complete statement concerning equipment depreciation accounting as to justify or call for any discussion of it in this brief," and further stating that the proceeding "did not contemplate the presentation of any evidence concerning equipment depreciation accounting, but limited the testimony to depreciation accounting for fixed property," contained the following:

> Quite a long experience has now been had in the matter of equipment depreciation accounting, but no data has been assembled fully and completely disclosing the result of this experience or the proper conclusions to be drawn therefrom. The time is therefore not now opportune to enter into any discussion of it.

The statement is without warrant that No. 15100 did not contemplate the presentation of evidence concerning equipment depreciation accounting. Evidence as to this matter was, in fact, presented by the depreciation section, and its tentative report contained recommendations with respect to such accounting. Moreover, the theory advanced by the steam railroad, gas, and electric companies leads inevitably to the conclusion that the accrual of depreciation charges and the creation of a depreciation reserve for equipment are unnecessary. This was admitted by some of the principal witnesses in behalf of the steam railroads.[3] It follows, if this theory be correct, that the net income of the Class I roads had in the past, up to December 31, 1922, been understated to the extent of the $1,181,383,728 mentioned above and that this amount, instead of being a necessary offset to depreciation, must be regarded as segregated surplus.

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[3] L. F. Loree, president of the Delaware & Hudson and chairman of the board of the Kansas City Southern, testified as follows:

Q. In the case of a large system do not the retirements of equipment equalize themselves pretty well?

A. I think they do.

Q. And that being the case, is there any necessity for depreciation charges with respect to equipment on such properties?

A. None in my judgment.

Howard Elliott, chairman of the board of the Northern Pacific, testified as follows:

Q. Mr. Elliott, just one or two questions. In the case of the Northern Pacific, do you think there is a necessity for a reserve for the retirement of equipment?

A. Mr. Eastman, I do not. We have always had such reserves and kept them up. I never could see that they did any particular good. I think we have on our balance sheet now an item called "Equipment Depreciation" of thirty odd million dollars, and it is simply a segregation as I call it, of our general surplus account. We have a profit and loss account, and we have an equipment reserve account. It is simply a part of our general profit and loss account.

W. H. Finley, then president of the Chicago & North Western, testified as follows:

Q. Mr. Finley, in regard to the depreciation charges in the case of equipment; did I understand that you thought those had been unnecessary?

A. I think so, yes, sir; but I did say that they were of such a short life and such a continued thing that they did not make any great disruption, but as a principle I think they are not necessary any more than on fixed property.

The equalization of retirements.—While the steam railroad, gas, and electric companies insist that the retirements of most units of a large, composite property tend ultimately to equalize, that is, to become the same in amount from year to year, no data were presented which furnish adequate support for this contention, nor is it confirmed by our own records. See Appendix A hereto. Furthermore, one of the chief reasons why these companies object to depreciation accounting is apparently a desire to avoid such equalization of retirement expenses. They wish an opportunity when business is poor to postpone or defer retirements, and consequent charges to operating expense, until business is good. Unless this opportunity be afforded, they say that at times their credit may suffer seriously, either because of a suspension or diminution of dividends or because of an unfavorable showing of net income. This amounts to saying that they wish to use the expense of maintaining the property as a form of shock absorber, allowing this expense to fluctuate in harmony with relative prosperity.

Substitutes for depreciation charges.—While the steam railroads oppose the making of depreciation charges and the creation of depreciation reserves, they have in the past quite generally adopted and defended practices which, when analyzed, are shown to have in many respects much the same practical effect. Thus, prior to our uniform system of accounts, it was the practice of many of the steam railroads to charge to operating expense, not only the cost of repairs and retirements, but also the cost of additions and betterments in substantial amounts. That this was the practice can easily be shown by our own records; but that is unnecessary, for its existence may be established by reference to certain decisions of the Supreme Court of the United States. *Union Pacific R. R. Co.* v. *United States*, 99 U. S. 402, 420–1, and *Illinois Cent. &c. R. R.* v. *Inter Com. Com.*, 206 U. S. 441, 461–2. After the establishment of the uniform system of accounts, which prohibits the charging of additions and betterments to operating expense, the railroads have consistently urged that they are entitled to earnings sufficient, not only to pay reasonable dividends, but also to permit the accumulation of a substantial surplus which may be invested in additions and betterments. Illustrating these contentions, certain extracts from *Advances in Rates—Eastern Case*, 20 I. C. C. 243, are given in the margin.[4] It will be noted that one of the reasons given for

[4] The following are extracts from our report in *Advances in Rates—Eastern Case, supra:*

"It is contended by the defendants, and this is one of the most important questions before us, that rates should be sufficient to enable them not only to pay their current operating expenses, their fixed charges, a reasonable dividend, and to maintain their

the accumulation of such a surplus is proper provision for obsolescence.

Objections to depreciation accounting.—Reverting to the immediate question before us, the cost of property consumed in operation is plainly a part of the cost of rendering service. Manifestly the accounts should conform to and adequately record this fact. The question is whether a record is adequate which takes no account of this cost until the final disappearance of the units in question, or whether its continuing nature should be recognized by entry of proportionate, periodical charges to expense accounts throughout the service lives of the units. We shall consider in turn each of the objections urged against the latter course and then discuss its advantages.

1. Perhaps the most important objection is this: That the method of spreading the cost of property used up in service in installments over service life, by means of "theoretical depreciation charges," results in the creation of a depreciation reserve which serves no useful purpose and is an unnecessary burden upon the patrons of the company and the owners of its securities. In considering this objection, we shall assume that it is possible to estimate with approximate accuracy the prospective service lives of the various property units. The contention that this is impossible will be separately considered.

Upon this assumption it is clear that the ultimate cost will be the same, whether it be charged in bulk when the unit is retired or whether it be spread in installments over its service life. If we could conceive of a telephone or railroad company using but a single unit of property with the intent of abandoning operation when that unit ceases to be fit for further use, the desirability of charging the

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properties at the present state of efficiency, but also to make improvements and additions to those properties of a permanent character. [P. 265.]

"The president of the Pennsylvania Company testified that since 1887 his company had put into the Pennsylvania lines east of Pittsburgh $262,000,000 from earnings. During all that time this company has also paid to its stockholders munificent dividends. [P. 269.]

"The carriers in the proceeding now before us have claimed that they should be allowed to invest in improvements and additions to the property an amount equal to that paid by way of dividends to stockholders. In the year 1910 railroad dividends aggregated $405,131,650. If this sum were to be invested in our railways annually for the next half century it would amount at the expiration of that period to $20,256,582,500, not regarding the item of interest. [P. 270.]

"It is further urged that there is an item of obsolescence in the development of a railroad which should be recognized in the surplus. New methods demand new facilities. Changed conditions require changes in construction. That which was right at the outset becomes valueless and must be replaced in process of time. [P. 271.]

"Under our present system of accounting railways are required to make a depreciation charge with respect to their equipment for the purpose of providing against contingencies of this sort; but they make no such charge with respect to their way and structures, and it seems proper that the accumulation of a surplus should be allowed in this view. [P. 271.]"

cost of the unit to operating expense in periodical installments throughout its life would hardly be open to question. We are faced, however, by no such simple problem. The property of a telephone or railroad company is actually a composite of many units and as they are retired they are ordinarily replaced, either in kind or by better substitutes. Future abandonment of operation is seldom contemplated. And in a growing community and with a growing business, which is the normal situation, new units of property are continually being added. Under such circumstances it will readily be seen that if the installment or depreciation method of charging the cost of property consumed in service be employed, the total of the installments which have been charged will always exceed materially the total cost of property which has been retired. There will always be a balance in the depreciation reserve representing installments which have been charged for units still in service, and so long as the company continues to grow this balance will tend continually to increase. It is this balance which, as the opponents of the installment or depreciation method of accounting see it, represents an unnecessary burden. No need exists for such a reserve, they contend; the utmost that may be needed is a comparatively small reserve which may be drawn upon at times of abnormally large retirements to prevent a disproportionate load from falling upon the operating expenses of any one year.

Question may arise as to how depreciation charges can burden both patrons and investors. It should be borne in mind that the accruing of depreciation charges upon the books does not necessarily mean that corresponding amounts are collected from the public served. If, after depreciation charges have been accrued, net earnings are insufficient for the payment of a reasonable return, then the burden of such charges is borne in whole or in part by investors. Indeed depreciation charges may not involve the diversion of actual funds from either patrons or investors, for where a company is operating at a deficit they will serve only to increase the extent of the recorded deficiency. Stated in another way, if depreciation charges are an unnecessary burden, as their opponents claim, that burden will fall upon patrons where revenue is sufficient to cover such charges and leave a reasonable return. Where revenue is inadequate, the burden may be shared by patrons and investors or be borne wholly by the latter.

But wherever they may impinge, the questions are whether depreciation charges are a burden and, if so, whether that burden is necessary or unnecessary. The latter is, of course, the vital question and the one to be answered first. It may be stated thus: Are depreciation charges necessary in order that the accounts may fur-

nish, as nearly as may be, an accurate record of the facts of operation?

If the various units of railroad and telephone property had fixed and definite service lives, it is doubtful whether the propriety of an affirmative answer would be questioned. Suppose, for example, it were known with certainty that a railroad car, once acquired, would last in service 20 years and no longer. Upon such an assumption can it be doubted that each year there is a consumption of the service life of the car which is a cost of operation, or that this fact ought to be recorded in the accounts? But under the retirement method no record of this fact appears until service life ends, and the cost which has been accruing over a 20-year period is shown in its entirety as an expense of the twentieth year alone. Is the situation changed by the fact that the service lives of the various units of property, instead of being certain and definite, are to a considerable degree uncertain and indefinite? Plainly this circumstance in no way affects the principle which ought to govern, but only makes it difficult to ascertain the fact to be recorded. To this difficulty we shall advert later.

It is conceded that the service lives of most units of railroad and telephone property are terminable. It is also conceded that the consumption of these units in service is an expense of operation. The question is only whether this expense should be accounted for, in the light of the best available information, as a continually accruing expense, or whether it should be accounted for as an expense suddenly incurred in its entirety at the time when the unit is retired. We have no hesitation in reaching the conclusion that the former method of accounting will conform much more closely to the facts than the latter.

The depreciation reserve, when all is said and done, is merely a record of the undoubted fact that the service lives of existing property units have to a certain extent been consumed. It may be an imperfect record, subject to correction or modification from time to time, but no question can exist as to the underlying fact. The fact may also be that appreciation has taken place in certain other property units, or that accumulated surplus is sufficient to counterbalance the effect of depreciation, or that the earning capacity of the company has enhanced the value of its securities, or that yearly retirements equalize to such an extent that operating expenses will be approximately the same whether or not there is accounting for depreciation. These are all facts which, if established, it may be desirable that the accounts should indicate, so far as practicable; but not to the exclusion of the fact of depreciation.

Having reached the conclusion that depreciation charges are necessary in order that the accounts may properly reflect the facts of operation, it is, strictly speaking, immaterial whether or not they burden patrons or investors. Nevertheless that question will repay consideration.

As an aid to clear thinking, let us again assume a company using but a single unit of property with the intent of abandoning operation when that unit ceases at the end of 10 years to be fit for good service. To simplify the matter further, let us assume that the value of the unit, aside from depreciation, remains at its original cost throughout the 10 years. If, then, one-tenth of the cost of the unit be charged to depreciation each year and collected from the patrons, three courses are possible:

(*a*) The amount so charged may be regarded as concurrent reimbursement to the company for the portion of the property which has been consumed in service, the amount upon which it is entitled to a fair return being correspondingly reduced. This will be fair to the company, but in the case of the patrons it will have the result that the amount which they are required to pay for service will each year steadily diminish. Thus, at the end of nine years they will be required to pay a fair return upon but one-tenth of the original investment, although the service will be unchanged, the assumption being that the property continues fit for good service until the time of its retirement.

(*b*) The amount so charged may be segregated in a fund to be applied to the reimbursement of the company when the property is finally retired, in the meantime the patrons to pay a fair return upon the full amount of the original investment. If this course be followed, the amount which patrons are required to pay each year for service will be uniform, but the fund at the end of the 10 years will be larger than necessary to reimburse the company for the cost of the property, in view of the interest accumulations.

(*c*) Obviously there are objections to both of the above plans. Yet another course to pursue would be to require the patrons throughout the 10 years to pay a return upon the full amount of the original investment, but to require them to pay for depreciation each year, not one-tenth of the cost of the property, but such amount as will with the accumulating interest produce a fund at the end of the 10 years sufficient to reimburse the company for the cost. This is what is known as the sinking-fund method of depreciation.

This simple illustration, however, is purely hypothetical. Railroad and telephone properties are actually made up, not of one but of many units, and normally they are continually growing in size. Moreover, the sinking-fund method, while in certain aspects

correct in theory, is subject to practical objections for reasons which will hereinafter be explained. The more usual plan in dealing with depreciation is similar to that outlined in (a) above. Amounts collected as depreciation charges, however, are not ordinarily put out at interest but are used for additions and betterments. It is an essential part of this plan that the same accrued depreciation which is represented by the depreciation reserve should be deducted in determining the amount on which the company is entitled to a fair return, for the reimbursement for property consumed in service is concurrent with the consumption and is not deferred until the time of final retirement. The company has the full use and benefit of the sums paid in each year by way of reimbursement, and in practice they are used to acquire new property upon which the company is entitled to return. Thus the gaps in the investment caused by depreciation are filled as they occur.

Clearly this method of treatment is fair to the company. In practice, also, it produces results approximating those of the sinking-fund method, so far as patrons are concerned. They are charged each year somewhat more for depreciation than under the latter method, but there is compensation for this excess in the fact that the accrued depreciation is deducted in determining the amount upon which they are required to pay a fair return. Moreover, with a complex, growing property made up of many units this amount does not continually decrease, as in the case of the theoretical property made up of a single unit.

As will later more fully appear, the doctrine that accrued depreciation must be deducted in determining rate-base value has been upheld very definitely by the United States Supreme Court. That being the case, the depreciation or installment method of accounting becomes a necessary measure of self-protection, so far as the companies are concerned. Notwithstanding these decisions of the Supreme Court, however, the railroad, gas, and electric companies are not ready to concede this doctrine, and hence their insistence upon the retirement method of accounting.

The close connection between the two positions is very evident. It is the presidents' conference committee on valuation that has continually insisted in our railroad valuation proceedings that so long as a railroad property is maintained in "100 per cent efficiency" no depreciation exists, and it is that same committee which in this proceeding has insisted that the retirement method of accounting must be followed. The positions sustain each other, and if one falls the other falls. In our consideration, therefore, of the relative burdens imposed by the depreciation and retirement methods of accounting, we must start with the premise that the former presupposes full

deduction of accrued depreciation in ascertaining the rate-base value, and that the latter presupposes no such deduction except where what may be termed "deferred maintenance" exists.

What are, then, the relative burdens upon patrons? So far as operating expenses are concerned, in the one case there will be a fluctuating expense for retirements; in the other there will be, in substitution, a more nearly uniform charge for depreciation. Assuming a new plant, the depreciation charges will normally exceed each year the average retirement expense. Assuming an older plant which has reached and is maintaining its maximum development, in time the depreciation charges will be no greater than the average yearly retirement expense. Assuming a growing plant, whether old or new, the depreciation charges will probably be somewhat greater than the average retirement expense, although the excess will be less for an old company. It must be borne in mind, however, that the retirement method of accounting contemplates the accumulation of reserves in connection with the larger units of property and that, to the extent that this policy is followed, the operating expense results of the two methods will more closely correspond.

But when it comes to return upon investment the results of the depreciation method will clearly be much more favorable to the patrons than the results of the retirement method. Summing the matter up, it appears that in the case of a new plant the former method will increase somewhat the operating expenses which patrons are called upon to pay, although this excess will diminish to the extent that under the latter method reserves are created for the retirement of the larger units. As a plant grows older this excess will continually decrease, and at the same time there will be a steadily growing saving, under the depreciation method, in the return upon investment which patrons are under obligation to provide. In time the net burden upon patrons will be less under the depreciation method than under the retirement method. It is equally clear that under the former there will be materially less securities outstanding which must be supported if the company is to prosper and be able to render adequate service.[8]

Turning to investors: So long as revenue is adequate, it is evident that depreciation charges impose no present burden upon investors, and it is equally evident that such charges strengthen their position for the future. Under the retirement method a company will

[8] This may not be true if, under the retirement method, the company has been able to accumulate a surplus equal to the reserve which would have been built up under the depreciation method; but manifestly the accumulation of such a surplus is as much of a burden upon patrons as the building up of a reserve.

be faced, when at length it "strikes its gait," with a greater volume of securities upon which to pay interest and dividends and by yearly charges to operating expenses for retirements which will average nearly, if not quite, as much as the yearly charges under the depreciation method and which in actual practice will fluctuate in an uncertain and sometimes dangerous way. Obviously the financial condition of the company will be less secure under the retirement than under the depreciation method, and it will be less well equipped to face the future and reap the benefit of improvements in the art.

If revenue resources are not adequate, it is true that the retirement method may enable a company, at least in the early years of development, to make a better apparent show of net earnings; but it does not follow that this is a blessing to the investor. It may well be argued that the best way for a company engaged in a quasi-monopolistic public service to obtain adequate revenue is to disguise its actual requirements as little as possible. The history of such enterprises is full of instances where investors have been misled to their hurt by delusive income and balance sheet statements.

The effect of the depreciation method upon investors may, indeed, be tested by results. As will hereinafter be shown, the telephone companies have quite generally employed this method, and they have built up depreciation reserves which are relatively much larger than those which the steam railroads have built up. Moreover the telephone industry is much younger than the railroad industry and has more recently emerged from the development period. It will also appear that certain steam railroads have depreciation reserves which are relatively much larger than those of others. Yet there is nothing to show that the investors in telephone companies have in general been worse off than the investors in steam railroads. Nor is there anything to show that the investors in railroads which have made generous provision for depreciation have been worse off than the investors in railroads which have made little provision.

One result of depreciation accounting ought not to be overlooked. The theory that needed retirements equalize after a large property has "struck its gait" is only a theory which, as we have stated, is not confirmed as a proposition of general truth by statistics within our knowledge. Under depreciation accounting, the amount which patrons are called upon to pay each year for property used up in service is, comparatively speaking, a fixed quantity. The depreciation reserve acts as a reservoir which absorbs the often violent fluctuations in actual retirements. Under the retirement method, the amount paid each year is a less dependable quantity. It may in some year amount to a serious burden, and the danger

constantly threatens that to avoid such burdens the management may neglect retirements required in the interest of good service.

It is further to be noted that the opponents of depreciation accounting attempt to draw a distinction between present and future patrons, accompanying this distinction by the claim that such accounting burdens the former for the benefit of the latter. As we have seen, the merits of this claim are open to question, but regardless of that fact the patrons of to-day merge with those of to-morrow. No good purpose is served by attempting to draw a line between them and their interests. The object of concern should be the community. What is sound policy for the community is, in the long run, sound policy for the individuals who make it up.

2. We come next to the contention that it is only possible to guess at service lives. If it were the practice to use property until it is actually worn out in service, it might be possible, say the opponents of depreciation accounting, to estimate with some degree of accuracy how long it will last; but as a matter of fact, in the case of railroad and telephone companies, most units of property are not retired because they are worn out.[6] Indeed it is often possible, so far as wear and tear are concerned, to prolong their lives indefinitely by repairs. Thus this is said to be true of a car or of a locomotive. For the most part, units of property are retired, it is said, because of obsolescence, inadequacy, or public requirements. That is to say, they are retired because some more efficient substitute has been developed, or because the growth of business has rendered them inadequate for the company's needs, or because some public requirement has made it necessary to shift or change property. It is urged that it is utterly impossible to predict when inventions will be made, or when business will outgrow existing plants, or when public authorities will impose requirements. This being so, the contention is that depreciation accounting is based on a theory that can not, as a practical matter, be applied except by mere guesses as to the future.

There is substance in this contention, but the future is not altogether inscrutable. It is known with certainty that most units of property will in time be retired from one cause or another. It also is known, where proper records have been kept, how long service lives have been in the past. Some considerable period of time ordinarily elapses after inventions before they are perfected for commercial use. Advance information is thus possible as to the time when changes in the art are likely to render changes in prop-

[6] In view of the retirements of rails, ties, other track material, telephone station apparatus, and many other units of property which might be mentioned, this is, of course, a much-exaggerated statement.

erty advisable. Nor is it beyond reason to anticipate the time when business will outgrow existing plant or when various requirements will be made by public authorities. The telephone companies are insistent that it is possible, with the help of past experience and the advice of engineers informed in regard to modern tendencies in the art and the trend of business growth, to reach approximations of future service lives which will be reasonably accurate.

The question is whether, because future service lives can not be estimated with entire accuracy, depreciation accounting must be abandoned as impracticable. For the present it is enough to say that we are satisfied that future service lives can be estimated with sufficient accuracy, subject to public supervision and to modification and correction from time to time, to warrant the use of depreciation accounting. But in the public regulation of this matter, it is desirable to err on the side of overestimating rather than underestimating service lives, for a reason which will appear in connection with the next topic to be discussed.

3. It is urged by the opponents of depreciation accounting that as most property units are abandoned, not because they are worn out, but in favor of some more efficient substitute, the cost incurred in their retirement should be charged, not against past operations, but against the future operations which will be benefited by the increased efficiency. This, of course, is an argument which applies only when the retirement results from obsolescence or inadequacy. The method of dealing with retirements thus suggested is permissible under the present accounting classifications, provided our approval is obtained in each instance.[7] The disadvantages of this method are not difficult to perceive. Under it the community either gains no immediate advantage from the introduction of improvements, or the advantage is materially curtailed. The general effect of such a policy is to discourage or retard the introduction of improvements. As we have above suggested, an attempt in this way to distinguish sharply between present and future patrons and apportion burdens accordingly is unsound. A community, if it is to progress and keep pace with other communities, must be able to take advantage of

[7]Account No. 726, "Property Abandoned Chargeable to Operating Expenses," in the steam railroad classifications may be used under the following circumstances:

"This account is intended as a suspense account, in which may be included amounts chargeable to Operating Expenses for fixed improvements abandoned directly in connection with improvement or betterment work which are relatively large and the inclusion of which in the carrier's accounts for a single year would seriously distort the accounts. It is to be used only after permission of the Interstate Commerce Commission has been asked and given. The carrier, in its application to the Commission, shall give full particulars concerning the property retired, the amount chargeable to Operating Expenses, and the period over which, in its judgment, the amount of such charge should be distributed."

Somewhat similar provisions are contained in the telephone classification.

improved means of doing business as they become available and without mortgaging the future. This will involve prudence, foresight and some degree of present sacrifice; but no other course is consistent with a sound economy. Moreover depreciation accounting attempts only to place the burden of current losses in service value upon the current users of the property, which obviously is logical. But while the method of charging improvements against the future is not one which is wholly consistent with the fact which the depreciation method of accounting purports to record, it is a method which is open and available for use in emergencies. We are not here dealing with competitive industries but with monopolistic or semi-monopolistic industries where public regulation is needed to protect the public interest. The choice is between permitting such an industry to charge rates which will enable it to make its depreciation charges large enough to meet every conceivable contingency, and holding its depreciation charges down to a more moderate basis but permitting the industry, in the case of some sudden and unexpected development, to spread the cost of retirements over a period in the future. In our opinion the latter course is the preferable one.[8] To this matter we shall advert again in the course of our consideration of the details of depreciation accounting.

4. It is urged that while there is comparatively little fluctuation of earnings in the telephone business, the contrary is true of railroads. This being so, the contention is that while a policy of charging off the cost of property in regular, annual installments may be well adapted to the needs of telephone companies, it is not suited to the needs of railroad companies. The business of the latter swings periodically from a peak of congestion to a valley of depression and back again. Expenses, it is said, must be adjusted accordingly or credit will suffer. It is the custom, according to the testimony, to adjust repair and renewal expenditures in this way. At a time when traffic is moving in great volume, large amounts are spent for the repair and replacement of equipment and fixed property. In a time of traffic slump, such expenditures are curtailed. With depreciation accounting, there would be less leeway for such adjustments. They would still be possible in the case of ordinary repairs, but not in the case of retirements. It is claimed that this diminished opportunity to adjust expenditures to earnings might mean a difference in some cases between maintaining regular dividends and passing them with consequent loss of credit.

[8] An additional reason for such conservatism in estimating service lives is afforded by the recent decision of the Supreme Court of the United States, in *Board of Public Utility Commissioners* v. *New York Telephone Co.*, decided April 12, 1926.

As has been indicated, this argument is inconsistent with the theory that, in the case of a large property which has "struck its gait," most retirements equalize. It is proof that many of the railroads do not wish to equalize retirement, but wish instead to adjust them from year to year in accordance with financial needs. This method of absorbing the shock of revenue fluctuations is undesirable from many points of view. It certainly means loss of efficiency and economy in maintenance work. It is impossible, when expenditures change in this way, to have a stable force of men or to operate shops with maximum efficiency. The policy of protecting credit by manipulating maintenance expenditures is thus an uneconomic method. It also may be perilous to investors. Credit is protected by what amounts to a mispresentation of the facts. There is nothing on the face of the accounts to indicate, except by resort to extensive comparisons, that repairs or renewals have been deferred. Yet apparent net income is no protection to the investor if it be procured at the expense of upkeep. The deferring of proper maintenance may not be a serious matter if it be confined to a comparatively short period and if the deficiency be made good without undue delay. But extended over any length of time such practice invites disaster, and not infrequently investors have fallen victim to such disaster.

If depreciation accounting, properly supervised, has for its purpose an adequate record of the facts, as we believe to be the case, then it is difficult to justify a departure from this method for the sake of preserving credit. Clearly some better method of preserving credit, if it needs preserving, ought to be devised than one which accomplishes its results by an incomplete or imperfect record of the actual cost of operation. It seems true that the business and revenues of railroad companies are subject to wider fluctuations than in the case of telephone companies, and this may justify some difference of treatment. But such difference ought not to be made at the expense of a proper record of the facts. It is possible that this problem should be met by permitting railroad companies in prosperous years to create a reserve, limited in amount, out of debits to operating revenue or income, which can be drawn upon in times of depression to augment revenue. However, this is a suggestion which obviously requires most careful consideration and, being outside the scope of these proceedings, it is not covered by the present record. We shall not undertake, therefore, to express an opinion upon it at this time.

5. It is contended that past experience has shown no need for a change in the practice of the railroads with respect to depreciation charges; that the policy of American railroads from the beginning has been to maintain their properties by the retirement method;

and that it has not been shown that any disadvantage to shippers, investors or the public generally has resulted. Reference is made to *Advances in Rates-Western Case*, 20 I. C. C. 307, where we said, at page 332:

> It is to be borne in mind that it has been American railroad policy to maintain the property fully, in a constantly improved condition, both as to roadbed and equipment, out of current revenue.

In considering this contention it should be borne in mind that, as has been indicated, many of the more prosperous carriers have in in the past secured results equivalent in many respects to those which would flow from depreciation accounting, by charging additions and betterments to operating expense or by making similar expenditures out of apparent surplus. Many of the railroads have passed through all manner of vicissitudes. Receiverships and serious losses to investors have been frequent in the past. Deterioration of property and service has been a by-product. It would require a prolonged analysis of past records, if it be possible at all, to determine the extent to which a proper system of depreciation charges might by forewarning investors have encouraged and facilitated plans for the averting of disaster. In such cases there have generally been so many contributing causes, such as excessive capitalization, bad management, or unwise investments, that conclusions with respect to the relative influences of various factors would be difficult to draw.

However that may be, the fact is, as we shall later show, that reasons now exist which have not heretofore existed for distinguishing proper provision for depreciation from other means of protecting the property, such as accumulation of surplus or rebuilding or improvement programs under the guise of maintenance, and also for carefully limiting and supervising such depreciation charges. There is nothing in past history which proves that depreciation accounting is unsound in principle or likely to produce harmful results. On the contrary, there is reason to believe that the railroads in the past that have best served the public and investors have been those which, in one form or another, have made provision for accruing depreciation.

6. It is claimed that if depreciation accounting is extended to cover all depreciable railroad property it will add so materially to operating expense that further increases in rates will be necessary. This contention, after all, begs the question. If depreciation accounting is a method by which the facts with respect to the cost of operating railroad and telephone companies are recorded with approximate accuracy, then that method should be adopted regardless of its effect on rates. Nothing is to be gained by refusal to face

facts or by deferring to some future date burdens which ought to be borne now. As we have seen, however, there are substantial reasons for believing that no additional burden upon patrons will result.

The present need for depreciation accounting.—So much for the objections to depreciation accounting. We now turn to certain affirmative reasons for such accounting and for the changes in the law which were made in 1920. The interstate commerce act now provides, in section 15a, a rule for regulating the general level of railroad rates. They are to be adjusted so that the railroads will earn, by groups or in the country as a whole, a certain definite return upon the aggregate fair value of their properties. Provision is made for the recapture by the Government of part of the earnings of companies which are fortunate enough to earn more than 6 per cent upon such value. In order that these provisions of the law may be successfully administered, it is necessary to have an accounting system which will disclose as accurately as possible the actual cost of operation. This is necessary for the protection both of investors and of the public. If more be included in operating expense than ought to be there, the public will suffer. If less be included, investors will suffer. This brings depreciation expense to the forefront. If the railroad, gas, and electric companies are correct in their contentions, then the present large amounts which are being charged each year for the depreciation of equipment and to some extent of fixed property ought to be eliminated from operating expense. And by the same reasoning the depreciation reserves for equipment which have been built up, amounting all told to more than one billion dollars, ought to be made a part of accumulated surplus available for declaration of dividends. On the other hand, if the telephone companies are correct in their contentions, then regular amounts should be included annually in operating expense, not only for depreciation of equipment but also for depreciation of many other kinds of steam railroad property for which such charges are not now accrued. And by the same reasoning the large amounts for the retirement of property which are included in operating expense in prosperous years and the lesser amounts which are included in years of depression should be eliminated and charged to the depreciation reserve. Moreover, if depreciation accounting be correct in principle, then the public regulating authority must be on its guard to prevent these charges from being made either smaller or larger than they ought reasonably to be made. Obviously a need for exact accounting in this respect exists which has not heretofore existed, and this no doubt was recognized by Congress in the amendment to section 20 under which this proceeding was instituted.

Quite apart from this special need to which section 15a has given rise, there is a general need for accurate accounting as to operating costs which perhaps did not exist in the past or at least not to the same extent. In the early days of railroad construction and for many years thereafter, railroads were dealt with very much as other private industries, and they offered a field for large speculative profits. That day has gone by and railroads are now confined, restricted, and supervised in almost every phase of their activities by public regulation. This regulation has eliminated much of the former risk of investment, but it has also eliminated much of the opportunity for large speculative profits. To attract investment under such circumstances the element of risk must be held within the closest possible limits, and this means careful provision against the uncertainties of the future. It also means a system of accounting which will disclose as nearly as possible the actual cost of operation which is presently being incurred, and which will reduce to a minimum the possibility of misleading investors by postponing to a later date the disclosure of any part of this cost. Nor does the need for such accounting exist only in the case of investors. The public served has an equal interest. In the old days of possible speculative profits the sequence of receiverships, reorganizations, and recoveries which so frequently occurred involved some temporary disturbance and impairment of service but no lasting injury, since new capital could be drawn without much difficulty into the field which disaster had visited. It is doubtful whether disaster can be so easily repaired under present conditions. If the public is now to secure necessary extensions of service and to be in a position to reap the benefit of improvements in the art of railroading as they develop, reliance must be placed upon sound economy rather than upon speculation and chance.

In our opinion depreciation accounting satisfies the needs above set forth. The essential reason is that this method of accounting conforms with far greater accuracy than the retirement method to the actual facts with respect to operating costs. Neither investors nor the public are left in doubt in regard to the costs which are currently being incurred and ought currently to be met in the interest of prudent and sound economy. If these costs be met, the financial condition of the companies will be strengthened and they will be able to face the future with a greater degree of assurance. There will be no need for mortgaging the future to meet the debts of the past. Investors and the public generally will be protected against extreme fluctuations in operating expense and against an unnecessarily large volume of outstanding securities demanding interest or dividend payments. Depreciation accounting, in short, conforms to the principles of conservative and constructive finance.

SUPPORTING AUTHORITIES

The conclusion above reached is in accord with our prior decisions. In other proceedings we have been confronted by the same or similar questions. Thus it has arisen in valuation proceedings under section 19a of the interstate commerce act. See *Texas Midland case*, 75 I. C. C. 1. In the report in that case it is stated, at pages 47–8:

> The act requires us to report in detail as to each piece of property "the cost of reproduction less depreciation." In complying with this requirement the bureau has treated depreciation as the exhaustion of capacity for service. It has inquired how much of such capacity existed when new, what part has been used up, and what part still remains. It states the remaining capacity as a fraction of which the total is the denominator and the part remaining the numerator. Taking cost of reproduction new the depreciation which has already accrued is subtracted, due consideration being given to salvage or scrap when this exists, and the remainder is given as cost of reproduction less depreciation.

In that case and in numerous other valuation cases which have followed it the carriers have insisted that this conception of depreciation is wrong, and that the inquiry should be "whether the property is in 100 per cent efficiency." So long as it is maintained in "100 per cent efficiency," or, in other words, so long as there is "no deferred maintenance," they say there can be no depreciation. The answer to this contention was given in full in the case cited, and, owing to its importance, it is set out at length in Appendix B. The definition of depreciation, as given in the "statement of methods" in Appendix 3 of the report in the case cited, is as follows, at page 125:

> As treated by the Commission, depreciation may be defined as the lessening in cost value due to the smaller number of service units in the property as found, than in the same property new. An article when new contains, so to speak, a certain number of units of service; as those units are exhausted the article depreciates. When they are all used up the service life ends.
>
> It is assumed that the loss of these units of service is evenly distributed throughout the entire life of the article. In point of fact this is not exactly true. Some articles may depreciate more rapidly in the early years of service and others in the last years, but the practical way is to assume that the loss is uniform, and it is believed that this as applied generally will produce a fair result.
>
> The extent of depreciation is expressed in condition per cent stated as a fraction, of which the denominator expresses the total service unit while the numerator gives those remaining. Thus 80/100 means that of 100 units of service 20 have been exhausted, while 80 remain. Ordinarily this fraction would be obtained by using total life for the denominator and remaining life for the numerator, but in some cases the fraction only expresses the relation between service units new and the service units at the date of valuation.

In addition to this decision in a valuation proceeding and to the opinions of the Supreme Court which are cited therein, there have been numerous other decisions of Federal courts, Federal commissions, and State commissions which have reached similar conclusions upon the subject of depreciation. It would unduly extend this report to cite these decisions here. The question is not one which may properly be decided by weight of authority. It is rather to be decided by the facts and the reasoning from the facts. However, if weight of authority were to be regarded as of controlling importance, it most decidedly supports the conclusions herein reached.[9] Only a few decisions of courts or commissions can be cited which support the views advanced by the railroad, gas, and electric companies, and these cases are of minor importance. The same preponderance of opinion in favor of the conclusions herein reached may be found by reference to writers upon the subject of accounting.

Of especial significance, from both the theoretical and the legal standpoints, is the fact that the conclusions herein reached with respect to depreciation accounting are in general accord with provi-

[9] In this connection the general statement in regard to depreciation which appeared at pages 3 and 4 of the second annual report of the Federal Power Commission is particularly illuminating, since it appears that substantially the same arguments were made by the National Electric Light Association in the presentation of its case to that commission as were made by the gas and electric light interests in this proceeding. The general statement referred to was as follows:

"As set forth in detail in the first annual report the existing regulations of the commission on depreciation and on accounting were adopted after many conferences with interested individuals and organizations and after substantial agreement had been reached with a committee representing the National Electric Light Association. Nevertheless, when the matter of a system of accounting was under consideration the association asked that the entire matter be reopened and it be granted further hearing. This was done on November 21, 1921. In view of the fact that at this hearing the regulations were attacked on grounds both of law and of policy it seemed desirable to have a legal interpretation of the act and of the powers and duties of the Commission. The several matters were accordingly referred to the chief counsel, who made a careful study of the act, of similar State statutes, of decisions of courts and commissions, and of the debates in Congress when the several provisions of the act were under consideration. The National Electric Light Association and the National Association of Railway and Utilities Commissioners were invited to submit briefs, and did so. These briefs, together with the opinions of the chief counsel, were, in accordance with the commission's customary procedure, submitted to the chief law officers of the three departments represented on the Commission, and the opinions of the chief counsel received their unanimous concurrence. The opinions were adopted as decisions of the commission at its meeting of July 26, 1922.

"With respect to depreciation the decision of the Commission holds that the primary purpose of accounting for depreciation under the Federal water power act is that reserves may be established and maintained sufficient for offsetting the reduction in service value due to accruing depreciation from whatever cause and for maintaining the original investment unimpaired and adequate for renewing and replacing, so far as respects their original costs, units of equipment or structures when their useful lives expire; that the act requires an accounting for depreciation substantially as set forth in the existing regulations of the commission; that such regulations are not inconsistent with the act, but on the contrary are necessary and proper for the purpose of carrying out the provisions of the act; and that the definition of depreciation and the amendment of the regulation proposed at the hearing are not in conformity with the act and if adoption would not make it possible to carry out the provisions of the act."

sions which are now embodied in our accounting classifications for steam railroad companies and telephone companies and which were included in those classifications at the time when the amendment to section 20 of the interstate commerce act, upon which this proceeding is based, was enacted in 1920. The provision in the telephone classification is particularly comprehensive and reads as follows:

23. Depreciation of plant and equipment.—Telephone companies should include in operating expenses depreciation charges for the purpose of creating proper and adequate reserves to cover the expenses of depreciation currently accruing in the tangible fixed capital. By *expense of depreciation* is meant—

(a) The losses suffered through the current lessening in value of tangible property from wear and tear (not covered by current repairs).

(b) Obsolescence or inadequacy resulting from age, physical change, or supersession by reason of new inventions and discoveries, changes in popular demand, or public requirements, and

(c) Losses suffered through destruction of property by extraordinary casualties.

The amount charged as expense of depreciation should be based upon rules determined by the accounting company. Such rules may be derived from a consideration of the company's history and experience. Companies should be prepared to furnish the Commission, upon demand, the rules and a sworn statement of the facts, expert opinions, and estimates upon which they are based.

The estimate for depreciation of physical property should take into account—

(a) The gradual deterioration and ultimate retirement of units of property which may be satisfactorily individualized, such as buildings, machines, valuable instruments, etc., to the end that by the time such units of property go out of service there shall have been accumulated a reserve equal to the original money cost of such property plus expenses incident to retirement less the value of any salvage.

(b) The depreciation accruing in property which cannot readily be individualized, such as pole lines, wires, cables, or other continuous structures, where expenditures for repairs or replacements of individual parts ordinarily are not actually made until the later years of the life in service of such property, and when made may, therefore, be classed as extraordinary repairs.

The rate of depreciation should be fixed so as to distribute, as nearly as may be, evenly throughout the life of the depreciating property, the burden of repairs and the cost of capital consumed in operations during a given month or year, and should be based upon the average life of the units comprised in the respective classes of property.

In the case of steam railroad companies the provisions are not so explicit, but are of the same general character. Thus the special instructions in the classification of operating expenses contains the following paragraph:

Maintenance Expenses.—The accounts provided for maintenance of fixed improvements and of equipment are designed to show the cost of repairs and also the loss through depreciation of the property used in operations, including all such expenses resulting from ordinary wear and tear of service, exposure to the elements, inadequacy, obsolescence, or other depreciation, or from accident, fire, flood, or other casualty.

These special instructions contain this further paragraph:

Depreciation of Fixed Improvements.—Depreciation accounts in which to include uniform monthly charges to cover the depreciation of fixed improvements, have been provided for the purpose of creating reserves which will meet or reduce the amounts otherwise chargeable, as may be appropriate, to operating expense or to profit and loss accounts to cover property retired. Such depreciation charges shall be based in each instance upon the percentage of the original cost (estimated if not known), ledger value, or purchase price of the property determined to be equitable by the carrier's experience and best sources of information as to the actual current loss from depreciation. A statement of the bases used by the carrier for computing these charges shall be included in its annual report to the Commission. Until further directed the use of depreciation accounts for fixed improvements is optional with the carrier. (See balance-sheet account No. 775, "Accrued depreciation—Road.")

Typical of the equipment depreciation accounts is the following:

315. FREIGHT-TRAIN CARS—DEPRECIATION.

This account shall include uniform monthly charges representing the depreciation of freight-train cars. These charges shall be based upon the percentage of the original cost (estimated if not known), ledger value, or purchase price of such equipment determined to be equitable from the carrier's experience and best sources of information as to the current average loss from depreciation. A statement of the percentages used by the carrier for computing these charges, together with the estimated life of the equipment upon which such percentages are based, shall be included in its annual report to the Commission.

Depreciation charges with respect to any freight-train car shall cease when the difference between the ledger value and the estimated scrap value shall have been credited to the accrued depreciation account.

(See general instructions for income, profit and loss, and general balance-sheet accounts, section 2.)

NOTE.—All charges to this account for depreciation of the carrier's equipment shall be concurrently credited to balance-sheet account No. 776, "Accrued depreciation—Equipment."

QUESTIONS OF LAW

The railroads contend that we have been given no power to require them to set up depreciation charges, a view of the law which is not shared by the telephone companies. Briefly, the position of the railroads is that the authority conferred upon us is to prescribe the classes of property and the rates of depreciation which shall be used by the carriers in the event they *elect* to set up depreciation accounts. In other words, paragraph (5) of section 20 of the interstate commerce act, as amended by the transportation act, 1920, makes mandatory "the percentages of depreciation which shall be charged with respect to each of such classes of property," *provided* a carrier elects to make such charges. It will help in considering this contention to

set forth again at this point the pertinent provisions of paragraph (5):

> The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission.

The view that we lack power to require depreciation charges rests upon the words "may properly" in the first sentence above quoted. The thought is that these words are permissive and leave the inclusion of depreciation charges in operating expense to the discretion of the carrier. This, we believe, is a plain misconception of the purpose and purport of these words. There are certain classes of property for which depreciation *may* properly be charged and there are certain other classes, such as roadbed and land, for which depreciation *may not* properly be charged. Our first duty is to ascertain and define the classes of property which belong in the first of these categories. Our second duty, separated by a comma from the first, is to prescribe the percentages of depreciation which "*shall be* charged" with respect to each of such classes of property. The meaning is the same as though the provision read as follows:

> The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which it is proper that depreciation charges be included under operating expenses. It shall then prescribe the percentages of depreciation which shall be charged with respect to each of such classes, etc.

The view is confirmed by the language which follows, namely:

> The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission.

Under the interpretation of the preceding sentences urged by the railroads, this would mean that a carrier might, in its discretion, charge the percentage of depreciation prescribed by us or *none at all*. No midway course would be open. That Congress had such an absurd intent is difficult to believe. This sentence is, however, entirely appropriate and consistent with the view that the preceding provisions give us power to require depreciation charges.

But apart from the above-quoted provisions of paragraph (5) of section 20, it is our opinion that we have and for many years have had full power to require depreciation accounting. Such power is derived from the final clause of paragraph (1) of section 20, as follows:

> The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe a period of time within which all common carriers subject to the provisions of this Act, shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

The first sentence of paragraph (5) of the same section is of similar effect, reading as follows:

> The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this Act, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of money.

The purpose of a system of accounts is to record the facts as to the operations of the carriers. Depreciation is a fact, so far as certain classes of property are concerned, and unless it be properly accounted for the record is incomplete and misleading. Long before 1920 and acting under this general authority, we required the carriers to set up in their accounts charges for depreciation on equipment, and no one has seriously questioned our power to make this requirement. Yet if we have such power with respect to equipment, plainly we have it also with respect to other classes of property.

Prior to 1920 our power over depreciation accounting was vague and discretionary. The amendment of 1920 made the power definite and its exercise mandatory. The amendment is in no way inconsistent with prior provisions of section 20. It clarifies and amplifies those provisions so far as depreciation accounting is concerned.

The railroads further intimate that if section 20 gives us power to require depreciation charges, the statute is in this respect unconstitutional and invalid, since it attempts to give us managerial powers over the carriers. It is suggested that the result of the exercise of this power—

> would be an arbitary interference by the Commission with the control and use by a carrier of such surplus arising from its legal earnings as it might be fortunate enough to accumulate. It would mean the substitution of the judgment of the Commission for that of the carrier as to when retirements of property should be made, and as to when the cost thereof should be charged as an operating expense. It would mean a direct interference by the Commission with the fiscal or financial policy of the carrier in the matter of meeting its fixed charges and in the payment of dividends by increasing, unnecessarily, the operating expenses of the carriers. It would mean the burdening of the operating expenses of the carrier for the creation of a wholly

unnecessary reserve and one for which, as to a substantial part thereof, the carrier could find no use.

It is not our province to pass upon the constitutionality of statutes enacted by Congress. However, it seems that this contention of the railroads rests upon a misconception of the purpose and effect of the statutory provision in question. Assuming that depreciation is a fact, and we have so found, the proper recording of that fact in the accounts is no more a matter for the exercise of managerial discretion than the proper recording in the accounts of the amount paid for the wages of trainmen or for the purchase of fuel. The power to prescribe a uniform system of accounts implies and includes power to require accounting for depreciation, and we had such power prior to the act of 1920. The amendment of that year gave us in addition power to determine the facts as to the amount and extent of depreciation. But this additional power is clearly no more an invasion of managerial functions than the power to determine what are the reasonable freight rates that a railroad company may charge or what securities it may properly issue.

In *Kansas City So. Ry.* v. *United States*, 231 U. S. 423, the constitutionality of our regulations relative to the method of keeping the accounts of common carriers was under consideration, and at pages 440–441 the court said:

> The very object of a system of accounts is to display the pertinent financial operations of the company, and throw light upon its present condition. If they are to truly do this, the form must correspond with the substance. In order that accounts may be standardized, it is necessary that the accounts of the several carriers shall be arranged under like headings or titles; and it is obviously essential that charges and credits shall be allocated under the proper headings—the same with one carrier as with another. * * * So far as such uniformity requirements control or tend to control the conduct of the carrier in its capacity as a public servant engaged in interstate commerce, they are within the authority constitutionally conferred by Congress upon the Commission. There is no direct interference with the internal affairs of the corporation; and if any such interference indirectly results, it is only such as is incidental to the lawful control of the carrier by the Federal authority and to this the right of the stockholders and bondholders alike are necessarily subject.

At pages 447–448 of the same opinion, the court said:

> The contention of the appellant that property, originally acquired because necessary in the construction of the road, and afterwards abandoned only because rendered unnecessary by the improvement and development of the property, should remain in the property accounts as a part of the stockholders' investment, will be found, upon analysis, to rest upon the unwarrantable assumption that all capital expenditures result in permanent accretion to the property of the company. *This in effect ignores depreciation—an inevitable fact which no system of accounts can properly ignore.* A more complete depreciation than that which is represented by a part of the original plant

that through destruction or obsolescence has actually perished as useful property, it would be difficult to imagine. [Italics ours.]

The same decision of the Supreme Court, at pages 451–2, contains the following statement:

The theory upon which the Commission has acted in formulating its regulations is fairly stated in its brief herein as follows: The abandonment of property incident to grade revision is "depreciation," and such depreciation is of two kinds—(1) that which is not replaced in kind, and (2) that which is replaced by improved materials, track, or equipment. If a trunk line of road has a branch extending into a territory not served by its main line, and, finding the branch unprofitable, abandons it, taking up the track, without constructing any substitute to serve the same territory, the abandoned branch ceases to be an earning instrumentality; the stockholders can thereafter derive no profit from it; it has served its purpose, and only past operations have benefited from it. So far as the profits of past operations have not been distributed to the stockholders, they are represented in the profit and loss account, and therefore such an abandonment or depreciation is properly chargeable to that account unless a special depreciation account has been established in anticipation of such abandonments; and for such an account, provision is made in the regulations. The other kind of depreciation is the result of changes attributable to the inadequacy of the existing property to meet the demands of the future. The road or the structures have to be replaced with stronger or more efficient instrumentalities. Abandonments occasioned by changes of this character are therefore chargeable to future earnings, for the reason that the improved condition of the road is not only designed to meet the demands of the future, but presumably will result in economies of operation, and so the resulting benefits will be reaped by those who hold the stock of the company in the present and in the future. The railroad company may, if it sees fit, anticipate general depreciations, and make provision for them by establishing a reserve for the purpose; but if no such provision has been made the abandonments should be taken care of by charging them to present or future operating expense. In case, however, the amount is so large that its inclusion in a carrier's operating expenses for a single year would unduly burden the operating expense account for that year, the carrier may, if so authorized by the Commission, distribute the cost throughout a series of years.

A statement of the theory is sufficient to show that the regulation is not arbitrary in the sense of being without reasonable basis. And there is evidence to show that the Commission was warranted in adopting it, as sustained by expert opinion and approved by experience.

It is suggested that this is a holding by the Supreme Court that such depreciation as is attributable to the inadequacy of existing property to meet the demands of the future may properly be charged either to a depreciation reserve or to present or future operating expense, and that the choice must be left to the carrier in the exercise of managerial discretion. The context clearly shows, however, that the court was merely describing the theory upon which we had acted in formulating the accounting regulations then in effect. It found nothing arbitrary about those regulations "in the sense of being

without reasonable basis." Under the depreciation accounting contemplated by the present provisions of paragraph (5) of section 20, a carrier could still be given opportunity to charge to present or future operating expense unanticipated depreciation "attributable to the inadequacy of the existing property to meet the demands of the future." The only change would be that the carrier would be required to accrue depreciation charges to cover depreciation of this character so far as it can reasonably be anticipated, and to charge to the depreciation reserve so created abandonments eventually brought about by the depreciation thus anticipated. As in the case of the prior regulations which were considered by the court in the case cited, the contemplated regulations are clearly "not arbitrary in the sense of being without reasonable basis."

A further and more difficult question of law is suggested by the special committee representing the National Association of Railway and Utilities Commissioners. Assuming that the assertion by Congress of the right of the Federal Government to regulate the telephone business was based upon an analogy with the railroad industry, the committee points out that the analogy is not close. It shows that if there be eliminated from consideration "the long lines business of the American Telephone & Telegraph Company, and possibly a limited number of other interstate toll companies," the great bulk of the telephone business is not carried on between communities, but "consists of the transmission of messages between parties living in the same community." The analogy with the railroads would, the committee thinks, "perhaps be perfect if the railroad business, in addition to transporting persons and property between localities, conducted a retail merchants local delivery service, and if that delivery service were several times as great as all the other business of the railroads combined." But, as a matter of fact, "the local business of a telephone company, which is the great bulk of its business, by no possibility can become interstate commerce except in those special cases where a community lies on a State boundary." The committee further asserts that so far as its members are aware none of the interstate telephone toll rates in this country "have ever been made upon a basis which includes any element for depreciation and return on the property of such local companies which is used in toll service." Quoting from the committee's brief:

> Under the interstate toll schedules in force in this country the telephone lines between the toll operator's position and the local switchboard, and between the local switchboard and the subscriber's premises are considered as purely local property, and any cost in connection with the maintenance, operation and depreciation of those lines, or of a return upon the investment in them, if covered at all, is covered by the charges for local telephone service. In other

words, in the makeup of the rates for local telephone service, the service which the subscriber gets in connection with interstate toll business, up to the point where he talks to the toll operator, is paid for as a local service.

And this further statement is made:

Unless the Interstate Commerce Commission is prepared to fix toll rates for the country generally on a basis which will include return, depreciation, maintenance, and operation on all property involved in the toll message lying between the toll board and the subscriber's premises, which would require a toll schedule materially higher than otherwise necessary, the fixing of the provision for depreciation on local property with no part of that depreciation provided by toll revenues becomes an interesting academic exercise but of no conceivable value.

The committee believes that from the public viewpoint the most important purpose of a provision for depreciation is to guarantee the continuance of adequate service. If the prescribing by us of depreciation charges "were necessary, or even helpful, in securing this purpose in origination or termination of interstate messages," the committee concedes that this would be an argument in favor of the extension of our authority over local property which is used, with the exception of the origination and termination of toll messages, solely in intrastate community service; but the committee asserts "that the State commissions have been, and are, successful in securing satisfactory service and the maintenance of reserves essential for that purpose, and in securing improvement of service over standards formerly existing." From the service standpoint, therefore, it is urged that there is nothing to be accomplished by any action on our part "looking to the establishment of rates for depreciation on property between the toll switchboard and the subscriber's premises."

Carrying the argument further, the committee points out that the allowances which have been made by State commissions for depreciation "have generally ranged between four and eight per cent of the investment in the property," or, in other words, that "provision for depreciation in general will require from fifty to one hundred per cent of the amount required for return." It believes that there is nothing to indicate that we will be able with as great accuracy as a State "to determine what the provision for depreciation on local telephone property should be." Yet if we prescribe depreciation requirements with respect to such local property, our judgment must prevail "at least as far as the accounting of the company is concerned and possibly to the extent of destroying the power of the State commission to recognize a different provision in a rate case." In such an event "the interference with the exercise of the judgment of the state commission will be just as serious as if the Federal Government delegated to the Interstate Commerce Commission the

determination of the rate of return which a local telephone company should be entitled to earn," action which would undoubtedly be regarded "as a drastic interference with the regulatory powers of the State." The provision for depreciation, the committee states, has usually required from about 12 to 20 per cent of total revenues. If, therefore, this provision is to be fixed by the Federal Government for local telephone properties, "something from one-eighth to one-fifth of the total revenue which the State commissions must provide in establishing rates will be for purposes entirely removed from any jurisdiction of those commissions."

While the committee does not assert that the statute gives us no power to prescribe depreciation charges covering the local properties of telephone companies where used to some extent in interstate toll service, and while it concedes that the provision in question seems mandatory upon us, it is contended that when the language of this provision is read in connection with other provisions of the act, doubt arises "whether the legislative intent was to give a hard and fast command covering all telephone companies." It is particularly pointed out that while the prescription of uniform methods of accounting is usually considered the first essential in the regulation of accounting practices and charges, yet the same section in which the language regarding depreciation appears provides that we may *in our discretion* prescribe forms of accounts and records. We have, in the exercise of this discretion, refrained from prescribing forms of accounts and records for telephone companies smaller than those in class C, even though engaged to some extent in interstate commerce. The enforcement by us of depreciation requirements would, the committee believes, be "nothing less than an impossibility" with respect to class D telephone companies and a "practical impossibility with a very large number of class C companies." Yet "the connection of many of the larger companies with interstate commerce is just as indirect and insignificant as the connection with such commerce of many of the smallest companies in the country." In its brief the committee goes on to say:

> If the Interstate Commerce Commission has authority to exclude from its order any telephone company engaged in interstate business, as we believe it has, it seems evident to us that it must be empowered to exercise a degree of discretion which will make it possible, if the Commission sees fit, to exclude from the scope of its order all those telephone companies, regardless of size, whose interstate business, whether carried on directly over their own lines or whether they act merely as an originating or terminating station for another company, is relatively insignificant.

The suggestion is made that the direction to us to prescribe percentages of depreciation "as soon as practicable" gives us a certain authority to exercise discretion. Conceding that in a narrow sense

the use of the words "as soon as practicable" might be construed to refer to the time required for the necessary steps to carry out the law, the committee argues that a more reasonable interpretation is "that the action must be practicable in the light of all the conditions." In other words, it must not only be a *possible* course but it must be "practicable in the sense of being adapted to the situation." Continuing with this argument, the committee states:

> As applied to property directly used in interstate toll service and on which its owners receive a return and a provision for depreciation from interstate toll business we concede that Federal action will be directed toward a proper purpose, but the unfortunate and damaging results of federal action regarding depreciation rates on property between the toll switchboard and the subscriber's premises are so serious that we do not believe that the Interstate Commerce Commission is obliged to hold that such action, in view of all the conditions, is now practicable.

The final suggestion is that we revise the basis suggested by the depreciation section, in determining the exemption of telephone properties from the depreciation requirements, "so that their classification will be based upon the actuality of their being engaged in interstate commerce rather than upon the size of the company." The further suggestion is offered that—

> for those properties which are actively and directly engaged in interstate commerce the Commission fix rates for depreciation on the individual properties only after consultation with the State authorities concerned, and that where State authorities have already fixed rates for depreciation these rates be adopted by the Interstate Commerce Commission unless in a proceeding before that Commission the company or the public shows them to be unreasonable.

In the tentative report of the depreciation section it appears that as of December 31, 1921, there were 1,120 telephone companies reporting to us, divided for the purposes of the accounting regulations heretofore prescribed into the following classes:

Class A, with 69 companies having average annual operating revenues exceeding $250,000.

Class B, with 210 companies averaging annual operating revenues exceeding $50,000 but not more than $250,000.

Class C, with 841 companies having average annual operating revenues in excess of $10,000 but not more than $50,000.

Subsequently the classification was changed, with the result that as of December 31, 1923, there were 77 class A companies, having average annual operating revenues in excess of $250,000; 99 class B companies, having such revenues exceeding $100,000, but not more than $250,000; and 118 class C companies, having such revenues in excess of $50,000, but not more than $100,000. As heretofore stated, class D companies, namely, those companies having average annual

operating revenues of less than $50,000, have been exempted from our accounting regulations, even though engaged to some extent in interstate commerce.

All parties to this proceeding concede that uniform rates of depreciation can not be established for all telephone companies. There is entire agreement that rates of depreciation for the same classes of property differ materially, dependent upon the conditions under which the particular company operates, and that if we are to prescribe rates of depreciation, as the statute contemplates, a careful study must be made of the situation of each individual company. Nor, so far as we are aware, has any exception been taken to the assertion of the committee representing the National Association of Railway and Utilities Commissioners that the great bulk of telephone business consists of intrastate local community service; that the interstate service is largely toll service; and that it constitutes an insignificant fraction of the total business. These being the facts, and disregarding for the moment the proper interpretation of the law we are called upon to administer, it is obvious that the determination of rates of depreciation for the various classes of telephone property is a task which could more appropriately, conveniently, and economically be carried on by the State commissions than by us. It becomes necessary to consider, however, whether under the law as it now stands it is legally possible to leave this task wholly to the State commissions.

The committee representing the State commissions does not, as we understand it, contend that paragraph (5) of section 20, so far as it gives us power to prescribe rates of depreciation for classes of telephone property which in reality are used almost exclusively in intrastate service, involves an unconstitutional delegation of Federal authority. Such a contention, if made, would not, in our opinion, be sound. It seems to be well established that where a local telephone company undertakes to originate or deliver toll messages, and most of them do so undertake, practically all of its property is open for use in interstate commerce and at any time may be so used. Under such circumstances, no doubt would seem to exist as to the power of Congress to regulate the accounting practices of such companies with respect to their property, including the accounting for depreciation.

The committee's contention, as aforesaid, is not that the statute is invalid as involving an unconstitutional delegation of power, but that the use of the words " as soon as practicable " gives us a latitude of discretion which permits us to refrain from prescribing depreciation requirements for the local telephone companies which in reality are engaged only to an insignificant extent in interstate commerce.

So far as the class D telephone companies are concerned it may be conceded that the prescription of depreciation requirements by us is impracticable, for the same reasons that we have refrained from requiring such companies to conform to our uniform system of accounts. So far as the companies in classes A, B, and C are concerned, however, we are unable to conclude that the prescription of depreciation requirements by us, although involving much time and expense, is *impracticable*. Unless and until the provisions of paragraph (5) of section 20 are changed by Congress, therefore, we feel that we must endeavor to enforce them in the case of such companies. The final portion of paragraph (3) of section 13 of the interstate commerce act, however, now reads as follows:

> The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this Act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this Act.

Attention is particularly directed to the last sentence above quoted, authorizing us to avail ourselves of the "cooperation, services, records, and facilities of such State authorities in the enforcement of *any provision of this Act*." This, we believe, is a provision of the law of which we may well take full advantage in the instant proceedings. The plan or method by which this may be done will be considered later in connection with the details of our regulations relative to the depreciation requirements for telephone companies.

VARIOUS STATISTICS

As of December 31, 1921, there were 1,131 operating steam railroads reporting to us, divided into the following classes:

Class I, comprising 192 roads having annual operating revenues of more than $1,000,000.

Class II, comprising 316 roads having annual operating revenues of from $100,000 to $1,000,000.

Class III, comprising 389 roads having annual operating revenues of less than $100,000.

Switching and terminal, comprising 234 roads.

Similar statistics as of the same date have already been given for telephone companies at page 331, *supra*.

The following table shows for Class I steam railroads, as of the dates specified, the total book investment in road and equipment, the total balance in depreciation reserves, and the ratio in each case of this balance to the total investment:

Year ended—	Investment in road and equipment [1]	Balance in depreciation reserve	Ratio of balance in reserve to total investment
			Per cent
June 30, 1914	$12,740,185,424.98	$382,259,876.97	3.00
June 30, 1915	13,155,050,304.27	450,689,119.83	3.43
June 30, 1916	13,451,815,603.25	506,269,039.25	3.76
Dec. 31, 1916	13,617,257,400.38	551,800,772.06	4.05
Dec. 31, 1917	14,461,737,193.70	696,044,619.83	4.81
Dec. 31, 1918	14,875,615,930.40	739,743,622.28	4.97
Dec. 31, 1919	15,143,269,398.80	828,516,664.27	5.47
Dec. 31, 1920	15,673,705,235.04	994,787,234.44	6.35
Dec. 31, 1921	16,096,190,704.39	1,141,298,538.52	7.09
Dec. 31, 1922	16,275,961,157.82	1,230,207,559.51	7.56
Dec. 31, 1923	17,375,441,993.59	1,288,528,254.27	7.42

[1] The above includes for years 1914 to 1922, inclusive, roads classified as Class I for the year ended December 31, 1921. The figures for 1923 cover roads classified that year as Class I roads. The investment figures for years 1914 to 1922, inclusive, include only amounts reported in account 701, "Investment in road and equipment," whereas those for 1923 include also amounts shown in account 702, "Improvements on leased railway property." This footnote also applies to the table which follows.

The showing for all steam railroads is quite similar. Thus on December 31, 1923, the total recorded investment in road and equipment was $18,746,503,675, and the corresponding balance in depreciation reserves $1,359,951,439, or 7.25 per cent of the investment.

The above table, as well as all other tables contained in this report and in the appendixes, was compiled from data included in the exhibits and questionnaires which are part of the record in Nos. 14700 and 15100, except that to make them more complete there have been added data contained in certain of the annual reports which were not available when the exhibits were compiled, and except that for the purpose of bringing the tables more nearly up to date similar information contained in the annual reports for years subsequent to those covered by the exhibits has been added. A further exception in connection with the data contained in Part II of Appendix A is indicated in that appendix.

Of the total balance of $1,230,207,559.51 in the depreciation reserves of Class I carriers on December 31, 1922, $1,181,383,728.31 represented reserves for depreciation of equipment. The balance represented reserves for depreciation of fixed property.

Not all of the steam railroads segregate their investment account as between "Road" and "Equipment." In the case of those which make such a segregation the following table shows for Class I roads, as of the dates specified, the total book investment in equipment, the total balance in depreciation reserves for equipment, and the ratio in each case of this balance to the total equipment investment:

Year ended—	Total investment in equipment [1]	Balance in depreciation reserve, equipment	Ratio of balance in reserve to total investment
			Per cent
June 30, 1914	$1,475,588,782.22	$243,133,845.64	16.48
June 30, 1915	1,750,092,474.18	306,917,493.19	17.54
June 30, 1916	1,837,074,395.18	348,498,406.83	18.97
Dec. 31, 1916	2,188,355,904.01	406,075,667.16	18.56
Dec. 31, 1917	2,462,634,551.07	539,073,692.61	21.89
Dec. 31, 1918	2,644,334,145.44	568,071,321.28	21.48
Dec. 31, 1919	2,749,519,496.76	631,646,899.68	22.97
Dec. 31, 1920	3,000,245,353.15	760,086,051.24	25.33
Dec. 31, 1921	3,076,334,893.53	874,658,533.62	28.43
Dec. 31, 1922	3,266,814,172.08	934,886,116.24	28.62
Dec. 31, 1923	3,967,270,844.11	1,074,891,658.21	27.09

[1] See footnote to next preceding table.

In Appendix C a table is given showing for each Class I steam railroad, at the dates specified, the ratio between the balance in the depreciation reserve and the total recorded investment in road and equipment. It will be noted that this ratio varied, as of December 31, 1923, between 35.4 per cent and zero. The table also indicates the carriers which account for depreciation of equipment only, those which account also for depreciation of practically all classes of fixed property, those which account also for depreciation of certain classes of fixed property, and those which do not account for depreciation on any property. In general, the carriers that do not account for depreciation on any property own no equipment. In Appendix D a table is given showing for each Class I steam railroad which makes a segregation of its investment account between "Road" and "Equipment," as of the dates specified, the ratio between the reserve for depreciation of equipment and the total recorded investment in equipment. Leaving out a few of the less important roads, the ratio varied as of December 31, 1923, between 70.3 and 2.2 per cent.

The following table shows for all class A telephone companies, as of the dates specified, the total book investment in plant and equipment, the total balance in depreciation reserves, and the ratio of such balance in each case to the total recorded investment:

Year ended—	Investment in plant and equipment	Balance in depreciation reserve	Ratio of balance in reserve to total investment
			Per cent
Dec. 31, 1913	$747,924,283.68	$94,839,614.94	12.68
Dec. 31, 1914	811,994,582.41	108,677,330.93	13.38
Dec. 31, 1915	846,921,933.64	126,143,992.05	14.89
Dec. 31, 1916	905,559,685.13	148,743,259.44	16.43
Dec. 31, 1917	1,028,055,174.32	181,093,161.42	17.62
Dec. 31, 1918	1,150,835,152.64	218,453,101.03	18.98
Dec. 31, 1919	1,236,487,732.61	257,166,876.81	20.80
Dec. 31, 1920	1,469,652,013.80	310,922,648.93	21.16
Dec. 31, 1921	1,642,912,633.12	356,412,154.65	21.69
Dec. 31, 1922	1,863,379,190.67	421,338,473.37	22.61
Dec. 31, 1923	2,101,472,726.70	468,134,644.66	22.28

The class A companies included in the above statement are those which are so classified by our order effective January 1, 1923, i. e., companies having average annual operating revenues exceeding $250,000.00 and reported to us as such as of December 31, 1923.

The showing for classes A, B, and C combined is quite similar. Thus on December 31, 1923, the total recorded investment in plant and equipment was $2,203,111,554, and the total balance in depreciation reserves $488,103,983, or 22.16 per cent of the investment.

In Appendix E a table is given showing for each class A telephone company reporting to us as of the dates specified, but classified according to the order effective January 1, 1923, the ratio between the balance in the depreciation reserve and the total recorded investment in plant and equipment. It will be noted that this ratio varied, as of December 31, 1923, between 44.3 and 2.9 per cent.

Out of the 1,131 steam railroad companies reporting to us at the close of the year ended December 31, 1921, 1,041 responded to the questionnaire sent out by the depreciation section in No. 15100.

An analysis of the returns to the questionnaire, which were made a part of the record in No. 15100, discloses that practically all of the carriers have classified equipment as depreciable property. Of the carriers, 387 believe that certain fixed property should be regarded as depreciable; 324 believe that no fixed property should be so regarded; 330 are noncommittal. In Appendix F the answers to this question are summarized of the Class I steam railroads which either have been accruing depreciation charges on certain classes of fixed property or which, while it has not been their practice in the past, are of the opinion that depreciation charges should be accrued on certain indicated classes.

Of the companies which responded to the questionnaire, 635 have not accrued depreciation on fixed property; 182 have accrued such charges on certain units peculiar to their individual lines or for particular reasons; and 224 did not furnish the desired information. While a number of companies submitted data as to average service lives, estimated salvage values and depreciation percentage rates as applicable to fixed property, these data, although having some evidentiary value, can not be considered as controlling for comparative purposes because they apply to dissimilar classes of fixed property of different individual companies. With respect to equipment, 758 companies gave average service lives; 732 showed estimated salvage values; and 782 showed percentages of depreciation. The remaining respondents submitted no specific information. That no uniformity exists in the bases used is evident from the fact that steam locomotives were shown by different carriers to have service lives of from 4 to 55 years; other locomotives from 5 to 45 years; freight-

train cars, wood, from 3 to 60 years; freight-train cars, steel, from 8 to 50 years; passenger-train cars, wood, from 5 to 66 years; passenger-train cars, steel, from 5 to 50 years; motor equipment of cars, from 3 to 50 years; floating equipment, from 4 to 84 years; work equipment, wood, from 5 to 60 years; work equipment, steel, from 5 to 50 years; and miscellaneous equipment, from 2 to 40 years.

Original unit costs of both fixed property and equipment are available in the case of 551 companies as the basis for depreciation computations, while 294 companies state that appraised or inventory values must in part be employed. One hundred and ninety-four companies did not furnish this information.

Depreciation percentages have been based on individual unit observations by 98 companies, on an estimated basis by 683, and on financial necessities by 29.

Belief is expressed by 657 companies that depreciation rates used by them in past years have been adequate, 141 companies believe that their rates have been inadequate, and 243 companies express no opinion.

According to the responses of 137 companies, it is practicable to adopt uniform rates of depreciation, if climatic conditions and standards of maintenance are considered, while 575 companies express the opinion that it is impracticable to adopt such rates.

In Appendix A tables are given showing the credits made to investment accounts on account of equipment retired for each of a series of specified years by representative carriers in the eastern, western, and southern groups. Other tables in the same appendix are given showing information concerning the replacement of ties and rails. The data contained in these tables have been compiled from the exhibits in No. 15100 and annual reports filed with us, and the purpose of the tables is to show that there is in practice no such equalization of annual retirements of property as the carriers at times have shown a disposition to claim.

Out of 1,120 telephone companies reporting to us at the close of the year ended December 31, 1921, 983 responded to the questionnaire sent out by our depreciation section to elicit information for use in No. 14700.

An analysis of the returns to this questionnaire, which were made a part of the record in No. 14700, discloses no material disagreement with respect to the classes of depreciable property. From their records 598 companies can determine the cost or inventory value of their property by classes; 758 have estimated average service lives by classes; 663 have estimated salvage value percentages by classes; and 691 show percentages of depreciation used in past years.

Of the companies, 540 have based their depreciation rates on individual plant observation, which includes average service life and estimated salvage value, 160 have based their percentages on financial necessities, and 174 have used rates fixed by State or municipal authorities. Belief is expressed by 483 companies that the rates used have been adequate, while 309 companies state that their rates have been inadequate.

The estimates of service life given in the answers show a wide range for the principal classes of property. For example, service lives of from 10 to 100 years are shown for buildings, 4 to 35 years for central office and subscribers' station apparatus, 3 to 75 years for continuous structures, such as pole lines, aerial wires and cables, 5 to 200 years for underground cables and conduits, and 1 to 40 years for general equipment. Salvage value percentages are shown to have practically the same relative range.

SPECIFIC CONCLUSIONS

Definition of depreciation.—The act requires us to prescribe "the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property." A necessary first step is to define "depreciation." The definition of our depreciation section in the tentative report in No. 14700 was as follows:

> For the purpose of these regulations the term "depreciation charges" shall be construed to mean the estimated loss in physical tangible property due to wear and tear not restored by current maintenance, the effects of age and decay, and the decrease in the service value due to obsolescence, inadequacy, changes in the art, and public requirements. They shall not include any charges representing the removal costs incident to or in connection with the retirement of property (whether replaced or not), storm casualties or extraordinary repairs of any character, or any other similar charge.

In the tentative report in No. 15100 the definition was the same, except that the words "storm casualties, or extraordinary repairs of any character, or any other similar charge" were omitted.

The definition in the present telephone classification differs somewhat, and is as follows:

> By *expense of depreciation* is meant—
>
> a. The losses suffered through the current lessening in value of tangible property from wear and tear (not covered by current repairs.)
>
> b. Obsolescence or inadequacy resulting from age, physical change, or supersession by reason of new inventions and discoveries, changes in popular demand, or public requirements, and
>
> c. Losses suffered through destruction of property by extraordinary casualties.

In the present steam railroad classification the following appears:

The accounts provided for maintenance of fixed improvements and of equipment are designed to show the cost of repairs and also the loss through depreciation of the property used in operations, including all such expenses resulting from ordinary wear and tear of service, exposure to the elements, inadequacy, obsolescence, or other depreciation.

The telephone companies are united in the view that depreciation is the resultant of all causes leading to the retirement of property, including wear and tear not covered by current repairs, obsolescence, inadequacy, public requirements, and extraordinary casualties.

While the steam railroads officially deny the fact of depreciation, except where a property has fallen below "100 per cent efficiency," it appears that on April 6, 1921, the committee, made up of three accountants and three engineers, which had been appointed to consider the matter of depreciation charges, reported to the presidents' conference committee in part as follows:

1. The depreciation accounts created under authority of the transportation act of 1920 should provide for retirement of property (not made in ordinary maintenance) out of current operating revenues through charges to operating expenses in anticipation of the extinguishment of the ledger value less salvage of such property when retired.

2. Developments in the art of transportation frequently make it desirable to discontinue the use of certain types of property *but the cause of retirement is not controlling in the setting up of depreciation accounts.* [Italics ours.]

Certain steam railroads, represented chiefly by the American Short Line Railroad Association, state that the operation of their properties is dependent on the product of particular forests, mines, or some similar source of traffic, and that when such source is exhausted operation must cease. These roads contend that this cause, also, of the retirement of property should be included in the definition of depreciation.

The main difference between the views of the telephone companies and those expressed in the tentative report in No. 14700 centers in the statement in the latter that storms or other extraordinary casualties should not be regarded as factors in depreciation. In the tentative report the following was said upon this point:

As to their contention that storms and casualties are elements of depreciation which should be considered in the determination of the service life along with physical deterioration from use, obsolescence, inadequacy, public requirements, and changes in the art, it is not believed that such an element comes within the meaning of the term "depreciation" as used in the act. It is recognized that the life of a relatively large proportion of a telephone plant is subject to abrupt termination by storms and casualties and that it is proper and reasonable to provide, through charges to operating expenses for the cost of property so destroyed, but there is no gradual process of depreciation in connection with such happenings, and no effect upon property which can be forecast with an approximate degree of accuracy.

In opposition to this view the telephone companies point out that extraordinary casualties are now and for many years have been recognized in our classification as factors in depreciation. They regard it as immaterial that the process of depreciation is not gradual in such cases, the same being true of other causes of retirement, such as obsolescence, inadequacy, and public requirements. In whatever way these causes operate, the fact remains, these companies say, that the property is subjected to all of them from the moment it goes into the plant and they all result in the consumption of capital in the course of operation. Storms are merely a degree of weather. Heat and cold, rain and frost are other weather conditions causing deterioration in the property. Depreciation will have been accrued on account of these other weather conditions, but not on account of the destructive storm, if the recommendations of our depreciation section be adopted. The telephone companies further contend that it is quite possible, as the result of experience and observation, to determine with approximate accuracy the extent to which future service lives will be affected by storms and similar casualties.

On the other hand, the city of Chicago, in an able brief, makes the point that depreciation should not be confused with insurance against possible contingencies. Depreciation, it argues, should be regarded as current and gradual consumption of service value from presently ascertainable causes. It cites rulings of the Internal Revenue Bureau to the effect that coal companies may not protect themselves against seasonal markets or possible explosions by depreciation deductions, nor manufacturers against storm losses or contingent inadequacy. Accounting authorities are cited to the same effect. Using obsolescence as an illustration, the city claims that there is "a kind of obsolescence which accompanies the normal progress of an art and which gradually, as years go on, destroys the value of property," but that there is another kind "which springs up overnight, unforeseen and abrupt, and terminates the life of property." The first kind of obsolescence, presently at work, is a factor in depreciation. The second kind is a mere contingency which may never occur. The city makes the same distinction between kinds of inadequacy, and states that "public requirements" do not consume property gradually. Such requirements are "a force which abruptly terminates usefulness," and a pure contingency. According to the city, contingencies should be provided for by surplus reserves, or by insurance, or by amortizing the loss sustained over a reasonable period in the future. The latter process is particularly appropriate when property retired is replaced by a more efficient and economical substitute. The risks of storm and

fire casualties are frequently covered by insurance and the cost of insurance regularly charged as an operating expense. If an allowance for the same casualties be included as a depreciation charge, the city points out that operating expense will contain a double charge for such hazards. It urges that the definition of depreciation charges recommended by our depreciation section be amended to read as follows, the changes being indicated by italics:

> For the purpose of these regulations the term "depreciation charges" shall be construed to mean the estimated loss in physical tangible property due to *current* wear and tear not restored by current maintenance, the *current* effect of age and decay, and the *current* decrease in the service value due to *presently ascertainable* obsolescence, inadequacy, and changes in the art. They shall not include any charges representing the removal cost incident to or in connection with the retirement of property (whether replaced or not), *or any allowance for contingent or presently unascertainable obsolescence, inadequacy, changes in the art, public requirements,* or storm casualties, or extraordinary repairs of any character, or any other similar charge.

In the case of railroads whose operation is dependent upon a particular source of traffic subject to exhaustion, our depreciation section made the following comment in the tentative report in No. 15100:

> A carrier whose operations are entirely dependent upon the output of a particular industry and whose property, used for transportation purposes, must be abandoned upon the exhaustion of such output should be permitted to provide for the total loss of its property during the period of its operation. Such loss, however, is not due to depreciation. There is, of course, a portion of it due to property consumed in operation which should be taken care of through operating expenses as depreciation. The balance is due entirely to causes entirely distinct and in no wise related to operation.

The recommendation was that the balance be charged to income during the period of operation in equal monthly or annual installments and concurrently credited to an appropriate reserve account, but not to the depreciation reserve. The carriers affected contend that no useful purpose is served by such a distinction or by the creation of two separate reserves.

It seems to us that the distinction which the city of Chicago draws between depreciation charges and insurance is valid. The function of the former is to account currently for the consumption or exhaustion of the service life of property from causes which are known to be in operation and the effect of which can be forecast with reasonable accuracy. The function of insurance, on the other hand, is to afford protection against possible contingencies which can not be foreseen and which may or may not ever occur.

If this distinction be observed between provision for depreciation and insurance protection against possible contingencies, the control-

ling test in determining whether or not a particular cause of the retirement of property is a factor to be reckoned with in estimating depreciation charges will be whether this cause is one against which the carrier is not protected by insurance and which is known to be currently in operation with an effect that can be anticipated with reasonable accuracy. If this test be applied, a particular cause of retirement may be wholly eliminated as a factor in depreciation, or it may be wholly included, or it may be eliminated in part and included in part. This may be illustrated by storm casualties. Ordinarily such casualties must be regarded as possible contingencies which may never occur, protection against which, if desired, can best be obtained through insurance. On the other hand, the telephone companies claim, and it may be that they can prove, that in some parts of the country weather conditions are such that certain storms, at least, may normally be expected and their future effect reasonably anticipated. Obsolescence affords a further illustration. It is a mistake to assume that inventions or improvements in the art invariably, or even as a general rule, have a sudden effect upon an industry. Their effect is often quite gradual, in view of the necessity for a period of experimentation, development and preparation for manufacture on a large scale. Past experience also furnishes some gauge of the probable effect of progress in the art. It follows that obsolescence may frequently be a factor to be reckoned with in determining depreciation charges. These illustrations are given merely to show that it is impossible in any general rule to define by name the causes of the retirement of property which should be recognized as factors in depreciation. All that can be done is to define the controlling characteristics of such causes, leaving their definite ascertainment to the proof which can be furnished in any given case.

(1) *We therefore find that depreciation is the loss in service value not restored by current maintenance other than extraordinary repairs, as defined in finding* (2) *infra, and incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy.* Such causes will hereinafter be referred to as factors in depreciation. It will be noted that under this definition the fact that the useful life of a railroad property is limited to the period during which a particular source of traffic continues may, if the necessary proof be supplied, qualify as a factor in depreciation. For convenience in accounting, however, it seems desirable that depreciation due to this particular factor should be handled through a special amorti-

zation account rather than through the depreciation reserve. This matter will be referred to again hereinafter.

Expense of depreciation.—The above definition does not indicate how the aggregate expense of depreciation is to be determined nor how or when that expense is to be recorded. The method of determining depreciation expense for telephone companies was covered in the tentative report in No. 14700 by the following recommended rule:

> The term "service life" shall be construed to mean the period of time between the installation of the property affected and the date of its retirement.
>
> The term "salvage value" shall be construed to mean the amount received for the property retired and disposed of or the amount representing the second-hand value if suitable for re-use. No allowance shall be made in determining the amount representing the salvage value for the cost of removing property retired or abandoned, or for recovering the salvage.
>
> The term "service value" shall be construed to mean the difference between the original cost of the property involved plus the additions and betterments thereto, including the applicable proportion of interest during construction, and the estimated salvage value at the time of retirement. It is the cost of the investment which must be provided for through depreciation charges. If the original cost cannot be ascertained, then an amount estimated by the accounting company to represent a reasonable cost of the property when acquired shall be used.
>
> Depreciation charges shall be based upon the service value of the class of property, as above defined.

The rule recommended for steam railroads was similar, with the exception that in the definition of "salvage value" the second sentence above quoted with reference to the cost of removing property or of recovering the salvage was omitted, and with the further exception that in the definition of "service value" the term "ledger value" was substituted for "original cost." The term "ledger value" was defined as "the value at which the property is carried in the property investment account in the general ledger of the carrier," and it was provided that "if the ledger value can not be ascertained or is not shown separately in the ledger, the ledger value of that item shall be its proportionate share of the ledger value of the entire group in which the particular property is included."

In the present steam railroad classification it is provided that depreciation charges shall be based upon "the original cost (estimated if not known), ledger value, or purchase price" of the unit of property in question. It is further provided in the case of equipment that depreciation charges shall cease "when the difference between the ledger value and the estimated scrap value shall have been credited to the accrued depreciation account." Nothing is said in connection with depreciation charges as to the cost of removing

property or of recovering salvage, but it is elsewhere provided that such expenditures shall be charged direct to operating expense when incurred.

In the present telephone classification it is provided that the estimate for depreciation of physical property should take into account—

(a) The gradual deterioration and ultimate retirement of units of property which may be satisfactorily individualized, such as buildings, machines, valuable instruments, etc., to the end that by the time such units of property go out of service there shall have been accumulated a reserve equal to the original money cost of such property plus expenses incident to retirement less the value of any salvage.

(b) The depreciation accruing in property which can not be readily individualized, such as pole lines, wires, cables, or other continuous structures, where expenditures for repairs or replacements of individual parts ordinarily are not actually made until the later years of the life in service of such property, and when made may, therefore, be classed as extraordinary repairs.

Extraordinary repairs are defined to include—

(a) Restoring to an efficient or proper condition buildings, structures, or other units of property which have deteriorated;

(b) Substituting, in order to maintain normal efficiency, new parts for old parts of continuous structures, such as pole lines, cables, wires, conduits, etc., where such substitutions do not amount to a practical replacement of any considerable length of such continuous structures;

(c) Restoring the condition of property damaged by storms, floods, fire, or other casualty;

(d) Recovering salvage and removing retired or abandoned property in connection with above work.

It is further stated that extraordinary repairs "should be provided for by adequate charges to depreciation."

It is agreed by all that depreciation expense should be based primarily upon the original cost to the accounting company of the unit of property in question. The principle is precisely the same in the case of the expense incurred over a period of years in the consumption of long-lived property in service, as it is in the case of the expense incurred in the more immediate consumption of such property as coal. In both cases the cost of the property in question is the basis of the charge to operating expense. Difficulty arises in the application of this principle from the fact that original costs are not always available, particularly in the case of the steam railroads. This will decrease in importance as time goes on, for the present steam railroad and telephone classifications, which have been in effect for about 10 years, require the keeping of the necessary cost records. In the meantime it is a difficulty of some considerable consequence, for many steam railroad companies and some telephone companies carry in their accounts as a single, undistributed item the investment up to a certain date prior to the promulgation of our classifications. Precisely the same difficulty, however, is encountered

under the retirement method, for in any event some amount must be credited to investment when a unit of property is retired, and if this amount has not been charged to operating expense in installments through depreciation accounting it must be charged in its entirety at the time of retirement, unless a charge to profit and loss be permitted. The present steam railroad classification meets this difficulty by providing that the credit to investment shall be the "ledger value" of the retired unit, and by this further provision:

In case the value of any item of property is not shown separately in the ledger the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included.

The present telephone classification contains this quite different provision:

When any fixed capital is withdrawn or retired whose book value is greater than the known or estimated cost, such excess should be charged to account No. 417, "Other deductions from Surplus", and the realized depreciation should be charged as elsewhere directed.

The provision above quoted from the steam railroad classification is subject to criticism, inasmuch as the ledger value of the unit or the undistributed ledger value of the group, as the case may be, may have been inflated as an offset to inflated capitalization. Such cases are not rare, and where they exist the result of the quoted provision will ordinarily be to inflate operating expense, for as above indicated every credit to investment on account of retired property must be balanced, except in instances where a charge to profit and loss is permitted, by a charge of the same amount to operating expense or to depreciation reserve or part to one and part to the other. In the telephone classification an attempt is made to avoid this objectionable result.

In the telephone classification, also, it is provided that when property is purchased in the form of a going or completed plant, its constituent elements shall be appraised at their structural value. If the actual money value of the consideration given for the property be in excess of their appraised value, the excess is charged to account No. 204, "Other Intangible Capital," and the constituent elements are entered on the books at their respective structural values. If there be no excess, the actual money value is distributed in the entries among the constituent elements in proportion to their structural values. This provision is no doubt based upon the theory that if a company pays more for the property than its constituent elements are worth, the excess is paid not for those elements but for some intangible factor associated with the property. The entry of the constituent elements on the books in such cases at structural values or less is, therefore, in harmony rather than inconsistent with

the principle that property should be carried on the books at its cost to the accounting company.

These provisions of the telephone classification suggest the method of meeting the difficulty above set forth. Depreciation accounting plainly requires a distribution of the investment among the primary accounts under road and equipment for steam railroads and under fixed capital for telephone companies. The enforcement of such accounting in the case of equipment has made necessary the segregation and analysis of that portion of steam railroad investment, and it is our understanding that to this extent the requisite data are available. In the case of fixed railroad property, also, the foundation for such a segregation and analysis has been laid. In the course of the valuation proceedings under section 19a of the interstate commerce act we have made a complete inventory of all railroad property. This inventory relates back to various valuation dates in the past, but the carriers have been required to keep detailed record of all additions and betterments since such dates. Furthermore the cost of reproduction new of the property so inventoried has been determined on a basis of the fair average of the unit prices prevailing for the years immediately preceding June 30, 1914. In the "statement of methods" contained in Appendix 3 in *Texas Midland Railroad*, *supra*, the following appears, at page 140:

> While the Commission is not as well informed today as it hopes to be before the end of its work, we are prepared to state with considerable confidence that the cost of producing and equipping a railroad in most parts of this country on June 30, 1914, was a fair average for at least the 20 years preceding. There had been many changes during that period. Some prices had advanced while others had declined. The cost of labor had somewhat increased, but improved methods tended to offset this increase. On the whole, the 1914 cost was just about an average for those previous years during which the great bulk of the railroad property then in use had come into existence.

These reproduction cost estimates, as of the various valuation dates, made up on the basis of these so-called 1914 unit prices and brought up to date by the cost record since maintained of net additions and betterments furnish, therefore, an approximation of original costs sufficiently close for the purposes of depreciation accounting. They are now used by many railroad companies in determining the amounts to be credited to investment and charged to operating expenses in the case of retirements. We shall enter an order requiring steam railroad companies to analyze and restate their investment accounts, using as a basis for such restatement the valuation inventories as modified by the records of subsequent property changes. This order requires a somewhat detailed discussion, in view of various complications, and we shall advert to it hereinafter. For the moment it is sufficient to indicate its general basis. In the

case of telephone companies no inventories have as yet been made under section 19a, but an elaborate system of depreciation accounting is the rule with those companies and it is our understanding that their investment accounts are in general sufficiently well adapted to such accounting. In view of the close acquaintance which the State commissions have with the affairs of the telephone companies and the helpful cooperation which we anticipate from those commissions in the administration of telephone depreciation accounting, any deficiencies in the investment accounts which require rectification will no doubt be brought to our attention, and can be dealt with as occasion arises.

The depreciation section justified its recommendation that the cost of removing property or of recovering salvage should not be included in depreciation expense by the following statement in the tentative report in No. 14700:

> Removal costs incident to the retirement of property neither increase nor decrease the residual value of the property and should not be used as factors in the ascertainment of salvage value. In the case of telephone companies the cost of removing property retired, particularly pole lines, aerial wires, and cables, often involves relatively large expenditures which, if charged to operating expenses at one time, might unduly distort them, and consequently there may be justification for anticipating and equalizing such charges. There is no question as to the propriety of charging expenditures of this kind to operating expenses, but they do not represent any part of losses includible in depreciation. They should be charged to a separate appropriate primary account having a distinctive title which would indicate the character of the charges to be included therein, such as "cost of removing property" or "property removal cost."

The telephone companies are united in their opposition to this recommendation. The amount of the depreciation expense, they say, is the cost of the property used up, i. e. the dollars consumed, and this amount is the original cost of the property less the salvage realized at retirement. Such salvage is not the gross amount obtained from sale but the net amount realized after deducting the cost incurred in recovery prior to disposition. We think this reasoning is sound and that the present telephone practice should be continued. Nor does there seem to be good reason why it should not be adopted in the case of the steam railroads.

The rule that aggregate depreciation expense is measured by the original cost of property retired less the net salvage realized at retirement is, however, subject to a qualification. When the property is retired for a cause, such as a fire, which is not recognized as a factor in depreciation, then it must be evident that, strictly speaking, not all the cost incurred in connection with or leading up to such a retirement can be considered depreciation expense. This matter will be further considered in connection with

the handling of the depreciation reserve and the proper charges and credits thereto.

Some property units are never retired in their entirety but instead are renewed piecemeal. This is true of what are often termed "continuous structures." The fencing along railroad right of way is an illustration. Another is afforded in the following statement made at the hearing in No. 15100 by a witness for the Southern Pacific:

> We have snowsheds covering 30 or 40 miles of our line out through the Sierra Nevadas. The engineers estimate that if those snowsheds were built today and were not repaired or renewed in any way from time to time they would disappear in 25 years. Those snowsheds were built 50 or 60 years ago, some of them longer ago than that. They have been repaired piecemeal from time to time, a board added here, a roof there, and so on, and all of those repairs and renewals have been charged to operating expenses, because under the Commission's rule they do not constitute more than 50 per cent of the value of the property as renewed.

Something of the same sort happens in the case of certain property units that are not "continuous structures" but are given from time to time a new lease of life by what may be termed extraordinary repairs or reconstruction. In some cases this process may be indefinitely repeated; in others there is an ultimate retirement of the unit as a whole. Thus a freight-train car which is apparently approaching retirement may be continued in service by using the parts which are still serviceable as the nucleus of a rebuilt unit which is in effect a new unit containing certain old and used parts. Until recently the classification for steam railroads provided that, in the event of such reconstruction, units of equipment should, under certain circumstances, be considered as retired and accounted for accordingly. The rule was as follows:

> When the cost of the renewals to be made to any unit of equipment will constitute the major portion of its value as renewed, the equipment, when taken out of service, shall be considered as retired and accounted for as provided in the preceding paragraph, and for the purpose of this classification the renewed equipment shall be considered an addition and the appraised cost thereof shall be included in the account appropriate for the cost of the equipment. In no case shall the charge for the renewed equipment exceed the cost (at current market prices of labor and material) of new equipment of similar type, equal capacity, and equal expectation of life in service, less a suitable allowance on account of the second-hand parts remaining therein.

Because of the great difficulty in the practical application of this rule it was eliminated from the classification, effective August 1, 1925, and now the cost of such extraordinary repairs or rebuilding of equipment is chargeable in all cases direct to operating expense. A similar rule, however, remains in the classification with respect to units of fixed property. In the case of telephone companies the

rule with respect to what are called "extraordinary repairs" has been quoted above.

That this matter of piecemeal renewal or extraordinary repairs has a most important bearing upon the problem of depreciation accounting will be readily appreciated. It is, perhaps, not impossible by successive programs of rebuilding to keep freight-train cars in service indefinitely, overcoming the effect not only of wear and tear but also, to a certain extent, of obsolescence and inadequacy. The president of the Delaware & Hudson testified that it is practicable to keep even a locomotive in service indefinitely by successive renewals of parts. The president of the Louisville & Nashville testified that structures, if kept in repair by an intelligent program of current renewals of component parts, may be maintained indefinitely. He further testified that during the five and one-half year period ended December 31, 1922, the original cost of the property retired, excluding tracks, amounted on his railroad to only 0.44 per cent of the total operating expense, and similarly that the average annual retirements during this period amounted to only 0.5 per cent of the book value of the property. It was also testified that during the period from 1907 to 1922 the charges for retirement on the Central of Georgia amounted to but 0.527 per cent of the operating expenses, and that the only retirements of buildings of any importance were due to fires, in connection with which practically all of the loss was recovered under insurance. For the Southern Pacific system it was testified that the average annual retirements charged to operating expenses and to profit and loss over a period of years represented but 0.5 to 1 per cent of the average ledger value of the property during the same period.

It is clear that continuous structures, such as fencing, trestles, snowsheds, telephone lines, and the like, are consumed in service, in other words that they are depreciable property, and that the same is true of railroad equipment. But it is equally clear that if depreciation accounting is to be followed in the case of such property, means must be found of charging against the reserve the cost of the piecemeal renewals which make it possible to keep the continuous structures in service indefinitely and of the extraordinary repairs which extend the span of life of the equipment. Otherwise, in the case of the continuous structures, the reserve will serve no purpose but will constantly accumulate without ever being drawn upon. And in the case of units, such as equipment, that are ultimately retired in their entirety, the purpose of depreciation accounting will to an extent be sacrificed if the extraordinary repairs which prolong service life by the renewal of substantial portions of the unit

be charged directly to operating expenses in the year in which they occur.

In our opinion this situation must be met by estimating service life, in the case of a continuous structure, on the basis of the weighted average lives of its component parts which are retired in connection with the piecemeal renewals. And in the case of units that are ultimately retired in their entirety but are given a new lease of life from time to time by extraordinary repairs, it must be met by estimating service value in such a way that consideration will be given, not only to the consumption of property which makes necessary the final retirement of the unit as a whole, but also to the consumption of property which gives rise to the extraordinary repairs.

Coupled with such estimates of service life there must of course be an accounting rule which will, so far as practicable, provide for the charging of the cost of piecemeal renewals or extraordinary repairs to the depreciation reserve instead of to operating expenses. What this rule should be will hereinafter be considered.

We find, therefore:

(2) *That the term "extraordinary repairs" shall, for the purposes of this finding, be construed to mean repairs involving renewals of substantial portions of a unit of property which are made in connection with the reconstruction or restoration of the unit or which involve renewals of longitudinal sections of continuous structures or the replacement of parts of such structures of a particular type by the substitution of parts of an improved type or design.*

That the term "service life" shall be construed to mean:

(a) In the case of units of property which are ultimately retired as units and which are not subject to extraordinary repairs, the estimated period of time between the installation of the unit in question and its prospective retirement.

(b) In the case of units of property which are not ultimately retired as units, but are continued in service indefinitely by extraordinary repairs, the estimated average period of time between the installation of the sections or parts of the unit in question which are renewed from time to time by the extraordinary repairs and their prospective retirements.

(c) In the case of units of property which are ultimately retired as units but have their period of service prolonged by extraordinary repairs, the estimated period of time between the installation of the unit and its prospective retirement as a unit.

That the term "net salvage value" shall be construed to mean the amount received for property retired and disposed of, or the amount representing the secondhand value if suitable for reuse, after de-

ducting the cost of removing the property and of recovering the salvage. In cases where the cost of removal and recovery is greater than the value of the material recovered, "net salvage value" may be a minus quantity.

That the term "service value" shall be construed to mean:

(a) In the case of units of property which are ultimately retired as units and which are not subject to extraordinary repairs, the difference between the ledger value of the unit and its estimated net salvage value at the time of prospective retirement.

(b) In the case of units of property which are not ultimately retired as units but are continued in service indefinitely by extraordinary repairs, the difference between the ledger value of the unit and the estimated net salvage value of materials recovered in connection with the extraordinary repairs.

(c) In the case of units of property which are ultimately retired as units but have their period of service prolonged by extraordinary repairs, the difference between the ledger value of the unit and the estimated net salvage value at the time of prospective retirement plus the estimated cost of extraordinary repairs intervening between installation and retirement after deducting the estimated net salvage value of materials recovered in connection with such repairs.

That the total expense of depreciation in connection with any unit of property is its service value determined as above provided.

Ledger value, as the term is used in the above and subsequent findings in this report, shall be determined in accordance with findings (8) and (9) infra.

It may be said that the matter of "extraordinary repairs" presents a problem of great practical difficulty. It is absolutely essential to a properly comprehensive system of depreciation accounting that this problem be squarely met and dealt with. Otherwise, reserves will be created which will in truth serve no useful purpose and cast an undue burden upon the public served. The particular method of dealing with this problem, however, which is set forth in the above finding and further developed in findings (10) and (11) *infra* has not had the benefit of criticism by either carrier accounting officers or State or municipal authorities. It is possible that it is capable of simplification or other improvement. Suggestions to this end will be welcomed, and, if need be, considered in a supplemental report.

In connection with this matter of depreciation expense a question arises with respect to the retirement of certain units of telephone property. Taking subscribers' station apparatus as the most noteworthy example, it appears that such apparatus is frequently taken from its original location, rehabilitated and then returned to a new

location, and that this process may be repeated at intervals before the apparatus is finally junked and abandoned. It also appears that it is the practice of the Bell companies to treat each such transfer of location as a retirement for accounting purposes. Rehabilitation is performed by an affiliated company, the Western Electric Company, and the cost charged to the operating expenses of the telephone company. After rehabilitation the apparatus, which has been carried temporarily in the material and supplies account, is restored to the plant account, not at its original cost, but at the market value of new apparatus of the same type. In a period of rising prices this involves an increase in assets over the original figure without any corresponding expenditure by the telephone company, but this increase is offset by a credit for salvage to the depreciation reserve. To illustrate this process, assume that a piece of station apparatus costs $10 and has a normal life expectancy of 10 years. At the end of 5 years it is taken from its original location for rehabilitation. By that time $5 is contained in the depreciation reserve on its account. The withdrawal of the apparatus for rehabilitation is regarded as a retirement, and plant account is credited with $10 and the depreciation reserve correspondingly charged with $10. At that time, however, the market value of new apparatus of the same type has become $15. The unit is taken into the material and supplies account at that figure, the depreciation reserve being credited with a similar amount as salvage. This leaves a net credit balance of $10 in the depreciation reserve. The price of the Western Electric Company for rehabilitation is $6, and this is charged to the operating expenses of the telephone company. After rehabilitation, the apparatus is transferred to its new location and entered in the plant account at $15. During the remaining five years of its life, prior to final abandonment, if depreciation be accrued at the same rate as theretofore but be based upon the new plant value, there will be a further credit of $7.50 in the depreciation reserve at the time of retirement, or a total of $17.50 without allowance for any recovery of salvage, as contrasted with the $15 which will be charged to that reserve upon the retirement of the unit. The company claims that such a result as this is avoided by a readjustment of the depreciation rate following the retirement of a unit of property and its transfer to a new location, but there has been no convincing demonstration of this fact by any accounting analysis nor even by the testimony of engineers.

Our classification requires that property be charged to the plant account at cost, and this practice, whereby transferred units are changed from a cost basis to an assumed market-value basis, is inconsistent with the classification, although it is fair to say that

the companies are relieved from some measure of responsibility by the fact that we have not heretofore undertaken to question it. The practice also results in fictitious credits for salvage to the depreciation reserve. In our judgment it not only runs counter to a principle underlying our accounting regulations, but it also leads to unnecessary and undesirable complications in the determination of depreciation charges. Property once acquired should remain in the plant account at its cost until it is finally abandoned or is put to a new use different from that for which it was originally installed. In the latter event it may properly be retired from the investment account and restored at its fair market value as secondhand property.

Determination of depreciation charges.—The above discussion indicates how the total expense of depreciation is to be measured, but not how or when that expense is to be recorded in the form of depreciation charges. The recommendation of the depreciation section in the tentative report in No. 14700 was to the following effect:

> Depreciation charges shall be computed separately for each class of property at the percentage rates which shall hereafter be prescribed therefor and shall be distributed under the straight-line method to operating expenses during the estimated service life of the property or as much thereof as may be consumed at retirement, if such retirement takes place prior to the expiration of the estimated service life.

A similar recommendation was contained in the tentative report in No. 15100. The purport of this recommendation is not altogether clear without reference to other findings proposed by the depreciation section, but the plan of determining depreciation charges which is contemplated may be summarized briefly as follows: First of all, the total depreciation expense is determined by estimating the "service value" of the property in question. This requires not only a ledger value corresponding as nearly as may be to original cost, but also an estimate of "net salvage value" at the time of prospective retirement and a similar estimate of "service life." Finally the annual depreciation charge is determined by dividing the estimated service value by the estimated service life. The purpose of this method of determining depreciation charges is to spread the entire expense evenly over the life of the property in service.

While it is generally agreed that depreciation expense should be evenly distributed in this way, not all factors in depreciation operate gradually, the effect of some being abrupt. The principle is fair, however, that the cost resulting from the using up of property in service should be shared equally by the years which have had the benefit of the use. The chief difference of opinion is as to whether the equal annual or monthly charges should be determined by the straight-line or the sinking-fund method.

The straight-line method is much the simpler of the two. Under it the annual depreciation charge is obtained by merely dividing the estimated service value by the number of years of estimated service life. Thus, with a service value of $1,000 and a service life of 10 years, the annual depreciation charge is $100. Under the sinking-fund method it is assumed that the depreciation installments will earn compound interest. The annual depreciation charges are so fixed, in other words, that these yearly payments plus the interes accumulations will equal service value at the expiration of service life. Assuming property with a service value of $1,000 and a service life of 10 years and assuming interest at 5 per cent compounded annually, an annual charge of $79.50 will produce the required $1,000 at the end of the 10-year period. It will be seen that the annual charge is materially less under the sinking-fund than under the straight-line method.

In considering the sinking-fund method it should be borne in mind that the depreciation reserve provided for in our classifications is merely a piece of accounting machinery. Annual or monthly charges for depreciation are made to operating expense, and to offset these charges annual or monthly credits in like amounts are made to the reserve. The depreciation charges represent money reserved from earnings, so long as the company is not operated at a deficit. In ordinary practice, however, this money is not earmarked and segregated into a separate fund. It goes into the general cash fund and is available for corporate purposes. As a rule it is ultimately used in the purchase of plant; in other words, as items of old property are used up through depreciation they are replaced by other items of new property of like cost. In this way capital is maintained unimpaired. The sinking-fund method, however, is based on the theory that money reserved from earnings by the depreciation charges shall be treated as a separate fund, the earnings from which, when invested, will not be available for general corporate purposes but will be returned to the fund and allowed to accumulate. Obviously, also, if this method is to operate according to its design, the fund must be so invested that it can be depended upon to produce regular earnings at not less than a certain minimum rate. To produce this result with sufficient certainty the fund must ordinarily be invested, not in the plant of the company, but in approved investment securities.

The straight-line method has the approval of the telephone companies and of the steam railroad companies, if depreciation charges are to be required. It also has the approval of most of the State and municipal authorities who were represented in these proceedings. Certain of the State commissions prefer the sinking-fund method.

Upon analysis it develops that this preference rests upon a belief that the rate base should be the investment in the property of the company without deduction for accrued depreciation. This fact suggests and illustrates the radical difference in the theories underlying the two methods.

The straight-line method is based upon the theory that the property or capital of the company is continually being consumed in service and that the owners should be reimbursed therefor concurrently with the consumption. Under this theory the funds reserved from earnings by the depreciation charges are immediately made available to the company for use for all corporate purposes. The owners cease to have a right to a return upon the portion of the property which has been consumed, but this loss is made up to them through the concurrent reimbursement. The funds so obtained by the company through this process of reimbursement may be used, if it desires, for the purchase of new property upon which a right to a fair return at once accrues. But this new property merely fills the hole caused by the partial consumption which is represented by the depreciation reserve. The sinking-fund method, on the other hand, is based upon the theory that the company is entitled to a fair return upon all property maintained in condition for proper service, regardless of the fact that a part of its service life has been consumed, and that the owners should receive no reimbursement for property consumption until the unit has finally been retired. Funds reserved from earnings by the depreciation charges are, therefore, segregated and allowed to accumulate at interest pending such ultimate reimbursement. They can not be used indiscriminately for corporate purposes but must be used to produce definite and reasonably assured earnings.

The difference in theory is well illustrated by the following passage from the brief filed in behalf of the Public Service Commission of Oregon, that commission being one of the advocates of the sinking-fund method:

> Manifestly, the straight-line method of calculating depreciation cannot properly be used in conjunction with an undepreciated rate base, nor should the sinking-fund principle be followed where a depreciated rate base is considered. In other words, the public cannot equitably be required to pay for capital as it is consumed, i. e., on the straight-line basis, and at the same time be required to pay a return upon such consumed capital, i. e., on an undepreciated rate base. Nor should a utility company be asked or required to forego its legitimate return upon the full undepreciated value of its property unless its capital is fully repaid as rapidly as it is consumed.

Granting the premises upon which they are based, both theories are logically sound. In our opinion the premises which underlie the straight-line method are, as we have indicated in an earlier part of this report, in accord with the principles which have been enunciated

by the Supreme Court of the United States. This method is also much simpler and easier to apply. Nor are the practical results of the two methods very different, a fact which we have also noted and explained in the earlier discussion. It is essential to bear in mind, however, that there is an inseparable connection between the straight-line method and the principle that accrued depreciation represented by the depreciation reserve must be deducted in ascertaining the rate-base value. If any other principle should hereafter be adopted by the courts, a reconsideration of the entire question of depreciation accounting would at once become necessary.

(3) *We therefore find that annual depreciation charges shall be computed at such percentage rate of the ledger value of the unit of property in question that the service value, as hereinbefore defined, may be distributed under the straight-line method in equal annual charges to operating expenses during the estimated service life of the unit. Annual charges so computed shall be reduced to a monthly basis by dividing by 12.*

Classes of depreciable telephone property.—In the tentative report in No. 14700 the depreciation section recommended that telephone companies be required to include in operating expense charges representing depreciation on the following classes of property:

Booths and special fittings.
Buildings, frame.
Buildings, brick.
Buildings, concrete, stone, or other masonry.
Cables, aerial, exchange.
Cables, aerial, toll.
Cables, underground, exchange.
Cables, underground, toll.
Cables, submarine, exchange.
Cables, submarine, toll.
Central office telephone equipment.
Central office other equipment.
Conduits, exchange.
Conduits, toll.
General shop equipment.
General stable and garage equipment.
General store equipment.
General tools and implements.
Interior block wires.
Office furniture and fixtures.
Pole lines, exchange.
Pole lines, toll.
Private branch exchanges.
Station apparatus.
Station installations.
Wire, aerial, exchange.
Wire, aerial, toll.

It is conceded, except by those who are opposed to all depreciation charges, that the foregoing classes of telephone property are depreciable. The telephone companies, however, contend that additional classes of property should be included in the list. We shall consider below each of these classes and the contentions which are made with respect to it.

The classes of property excluded by the depreciation section are embraced in the following accounts:

Acct. No.	Acct. No.	Name
200	------	Intangible capital.
------	201	Organization.
------	202	Franchises.
------	203	Patent rights.
------	204	Other intangible capital.
207	------	Right of way.
211	------	Land.
268	------	Interest during construction.
270	------	Undistributed construction expenditures
------	271	Engineering and superintendence.
------	272	Law expenditures during construction.
------	273	Taxes during construction.
------	274	Miscellaneous construction expenditures.

The companies agree that land should be excluded, but contend that all the other accounts shown in the table immediately above should be included. The reasons given by the depreciation section for the exclusion of such classes of property were as follows:

The telephone companies, collectively and individually, urge that all property used in telephone service, with the exception of land, should be considered depreciable, and have classified such property according to the groupings enumerated under fixed-capital accounts in the uniform system of accounts which became effective January 1, 1913. This includes intangible property, such as franchises, patent rights, and other intangible investment, and also right of way.

The classes of property for which depreciation charges may properly be included in operating expenses should embrace only physical property that is subject to wear and tear from usage and to the effects of age and decay, or whose usefulness or economical operation may come to an end because of obsolescence, inadequacy, changes in the art, or public requirements. It is obvious that the disappearance of property such as is represented by franchises, patent rights, and other intangible items is not brought about by the effects of these factors. This is also true with respect to right of way, so far as telephone companies are concerned, inasmuch as this property item represents the cost merely of rights and privileges to place poles and string wires on private property, public highways, and buildings and other structures owned by private or public interests. The effectiveness of such rights and privileges is limited, just as the service life of tangible property is limited, but the limitation is controlled by entirely different conditions. The tangible property of a telephone company is gradually consumed in the operations of the property by any or all of the elements previously mentioned; and, if the operating expenses are to truly reflect the cost of operation, there must be currently included therein the monthly or yearly proportions of such consumption, so that when the property has been entirely consumed or when its usefulness has reached an end, the operating expenses during its useful life will, in the aggregate, have borne the cost of the property or such proportion of the cost as may be represented by the exhausted service value.

On the other hand, intangible property such as franchises, patent rights, and right of way, is not consumed in the operation of the property. There is no gradual diminution in the effectiveness of such items, because they

convey a right to do certain things, a right which is uniform and constant throughout its life although it may have a limited period of effectiveness. It is recognized that the cost of such rights is not fairly chargeable against the month or year in which the right may expire, and that it is proper that this cost be amortized over the period of effectiveness by charges to the current appropriate expense or income accounts; but since there is no gradual diminution of effectiveness in operation, it is not believed that intangible property items of this character comprise a class of property subject to depreciation as the term is used in the act.

Account No. 201, "Organization," includes all fees paid and expenses incurred in connection with the organization and promotion of the company. It is not seriously contended that this property item should be classed as depreciable.

Account No. 202, "Franchises," includes amounts paid for but not exceeding cost to original grantees of all franchises having a life of more than one year. Account No. 203, "Patent rights," includes the cost of all rights having a life of more than one year acquired by the company in or under valid patents. Operating expense account No. 674, "Amortization of franchises and patents," provides that there shall be included therein each month the amount necessary to cover such portion of the life of limited franchises and patents as have expired or been consumed during the month. These property items have a service value which is confined to a limited period of years, and it is proper that their cost should be spread evenly over such period by equal annual charges to operating expense, rather than be charged in bulk upon the date when they cease to have value. The principle is substantially the same as in the case of the depreciation of tangible property. However, there is a certainty about the service life of these items which does not exist in the case of tangible property, and it therefore seems desirable that the separate plan of amortization now provided for in the classification should not be disturbed.

Account No. 204, "Other intangible capital," includes the cost of all other intangible property not elsewhere provided for. For the most part it is made up of the excess of the purchase price given for property acquired as a going concern over the appraised structural value of such property. This excess may now be amortized through surplus account No. 414, "Amortization unprovided for elsewhere." The telephone companies contend that it represents investment in physical property and that the consumption of this capital in service should be provided for by depreciation charges to operating expense, just as in the case of other investments in physical property. On the other hand, the city of New York contends that this item in reality seldom represents the cost of physical property but rather an amount in excess of such cost paid for the pur-

pose of eliminating competition. Even if the telephone companies' theory were accepted, it would be necessary to distribute the amount included in the item between depreciable and nondepreciable physical property. Under the circumstances this item will be excluded from the list of depreciable property.

Account No. 207, "Right of way," includes the cost of all land and interests in land acquired for the location of telephone wires, cables, pole lines, and underground conduits; salaries and expenses of right-of-way agents; expenses of appraisals and of juries, commissioners or arbitrators in condemnation cases; real estate brokers' commissions; cost of plats, abstracts, notarial fees, examination of title, recording fees, etc. It also includes the first cost of acquiring leaseholds of land for right of way the terms of which are for more than a year. In the brief filed by the Bell companies the following statement is made:

> Right of way of telephone companies is not land, as is frequently supposed. The life of right of way expires currently, and the cost of it is consumed in operation. Whether the right of way is for a limited term or not, in either case it will be abandoned (retired) whenever the line is abandoned. The two things are bound together. The property in the line may be said to consist of the physical poles and wires, together with the right to maintain them where they are. Since the retirement of one involves the retirement of both, they are both depreciable and should be so treated.

Amortization of this property item is now provided for in account No. 340, "Amortization of landed capital," which is an income account and not an operating expense account. It is not clear why this item should be amortized, if at all, through income rather than through operating expense, as in the case of franchises and patent rights. The record shows that the views of the Bell companies with respect to the proper treatment of this item are shared by the independent telephone companies, by the Public Utilities Commission of Michigan, and by the city of New York. Upon the whole, we think that the point is well taken that it should be classed as depreciable property. It is evident, however, that in determining depreciation charges for this item detailed evidence will be required with respect to service lives and net salvage values.

The character of account No. 268, "Interest during construction," is sufficiently indicated by its name. While this item was not classed by the depreciation section as depreciable property, it was in effect included in that category by the section's definition of "service value," which has been set forth above. It will be noted that original cost was there defined to include "the applicable proportion of interest during construction." While this is correct in theory, there is serious doubt as to its practicability. It would require a complete

apportionment of the amount in account No. 268 among the various classes of physical property, and it is doubtful whether this could now be done, in most cases, except upon an arbitrary basis. But unless such apportionment be made, it is impossible to determine what rate of depreciation should apply on this item even if it be assumed that it relates wholly to depreciable physical property, which is not the case. Upon the whole, we are not satisfied that this item should be included in the list of depreciable property. In view of the fact that the determination of depreciation charges inevitably involves a certain degree of speculation as to the future, and in view of the further fact that the companies are likely on the whole to benefit from this uncertainty, we are of the opinion that this particular property item can, without injustice or serious interference with a proper reflection in the accounts of operating costs, be omitted from the list of depreciable property, even though in theory it in part pertains to such property.

The situation with respect to the accounts grouped under No. 270, "Undistributed construction expenditures," resembles the situation with respect to interest during construction, and our conclusion as to these accounts is the same.

(4) *We find that the classes of property of telephone companies for which depreciation charges may be properly included under operating expenses are the classes of property included in this category by the tentative report of our depreciation section in No. 14700, as set forth above, and in addition the class of property known as "right of way."*

Classes of depreciable steam railroad property.—In the tentative report in No. 15100 the depreciation section recommended that steam roads be required to include in operating expenses charges representing depreciation by units on the following classes of property:

FIXED PROPERTY

Tunnels and subways.
Bridges, trestles, and culverts.
Elevated structures.
Snow and sand fences and snowsheds
Crossings and signs.
Station and office buildings.
Roadway buildings.
Water stations.
Fuel stations.
Shops and enginehouses.
Grain elevators.
Storage warehouses.
Wharves and docks.
Coal and ore wharves.
Gas producing plants.
Signals and interlockers.
Power dams, canals, and pipe lines.
Power plant buildings.
Power substation buildings.
Miscellaneous structures.
Roadway machines.
Shop machinery.
Power plant machinery.
Power substation apparatus.

EQUIPMENT

Steam locomotives.	Motor equipment of cars.
Other locomotives.	Floating equipment.
Freight train cars.	Work equipment.
Passenger train cars.	Miscellaneous equipment.

It also recommended that charges representing depreciation by groups be required on the following classes of fixed property:

Underground power tubes.	Power distribution systems.
Telegraph and telephone lines.	Power line poles and fixtures.
Power transmission systems.	Underground conduits.

The distinction between depreciation by units and depreciation by groups will be considered at another place in this report. If depreciation charges are to be required, there seems to be little dispute as to the depreciable character of the classes of property above set forth. They were all classed as depreciable in the report of the special committee of railroad accountants and engineers which has been mentioned above, with the exception of roadway buildings, gas-producing plants, roadway machines, telegraph and telephone lines, underground power tubes, and underground conduits. Why these classes were omitted by the committee has not been made clear. The classes of property excluded by the depreciation section are embraced in the following investment accounts:

1. Engineering.	38. Roadway small tools.
2. Land for transportation purposes.	39. Assessments for public improvements.
3. Grading.	40. Revenues and operating expenses during construction.
8. Ties.	41. Cost of road purchased.
9. Rails.	42. Reconstruction of road purchased.
10. Other track material.	43. Other expenditures—Road.
11. Ballast.	47. Unapplied construction material and supplies.
12. Track laying and surfacing.	
13. Right-of-way fences.	
36. Paving.	

GENERAL EXPENDITURES

71. Organization expenses.	75. Taxes.
72. General officers and clerks.	76. Interest during construction (in part).
73. Law.	77. Other expenditures—General.
74. Stationery and printing.	

Account No. 1, "Engineering," is similar to telephone account No. 271, "Engineering and superintendence," one of the subaccounts under No. 270. In our opinion it should be excluded from the list of depreciable property for the reasons given above in connection with the discussion of telephone account No. 268, "Interest during construction."

Account No. 2, "Land for transportation purposes," should clearly be excluded. No one contends that land should be classed as depreciable property.

With respect to account No. 3, "Grading," it appears that the retirement of grading is a contingency sufficiently remote in most cases so that it is not practicable to treat it as depreciable property. It should be excluded from the list for this reason.

The situation with respect to account No. 8, "Ties," account No. 9, "Rails," account No. 10, "Other track material," account No. 11, "Ballast," and account No. 12, "Track laying and surfacing," is quite different. It is conceded that those classes of property are depreciable. They were excluded by the depreciation section upon the theory that depreciation accounting with respect to them is not practicable. The reasons for this conclusion were stated in the tentative report as follows:

> Grading, ties, rails, other track material, ballast, and track laying and surfacing are the component parts of the roadway and track. Grading compacts and forms a more stable foundation for the track in the years succeeding construction. The fact that it improves with use would place it outside the class of depreciable property. Ballast becomes pounded down, disintegrates and disappears. Ties become unserviceable from exposure to the elements, and rails and other track material deteriorate principally from wear and tear. Track laying and surfacing represents charges incurred in the application of ballast, ties, rails, and other track material includible in property investment account.
>
> The vast number of items comprised in roadway and track and their constant renewal and replacement makes it practically impossible to individualize them for depreciation accounting purposes on a unit basis.
>
> To determine whether or not depreciation is properly accounted for and is distributed uniformly over the life of the property to which it relates consideration necessarily must be given to the ledger value of the depreciable item and to its estimated life.
>
> The total number of ties, or tons of rail, or of track fastenings, or of cubic yards of ballast in a carrier's property can not for the purpose of recording depreciation charges be treated as a unit in the aggregate.
>
> Retirements and renewals of constituent parts are constantly occurring. To attempt to identify original cost of each retired part and thus record the resultant changes in property investment account is not feasible.
>
> It is therefore not a question of the existence of depreciation with respect to this class of property but rather one which appears to have no practicable accounting solution as to a proper basis for the accounting for depreciation charges.
>
> For these reasons, only, ties, rails, other track material, ballast and track laying and surfacing are omitted from the classes of the fixed depreciable property of steam roads.
>
> It is pertinent here to call attention to the fact that the omission of these classes of property must not be construed to be in conflict with or adverse to the principles underlying the classification of depreciable property by the Bureau of Valuation for valuation purposes.

The engineer in valuing the property of a railroad after an inspection of the property states the depreciation percentage, if any, of the grading, ties, rails, other track material and track laying and surfacing upon each valuation section each as a separate piece of property. Where this detailed information is not available or when conditions arise making it impracticable to determine the condition of such separate pieces of property the engineer *may*, after an inspection of the property, combine the grading ties, rails, other track material and track laying and surfacing upon one valuation section and treat them as a single piece of property in stating depreciation. It is impracticable to treat these classes of property as separate units or the combination as a single unit in accounting for depreciation charges because of the complexity of the factors upon which such charges must be based.

Thus while there is unanimity of opinion in the belief that all classes of physical property of steam roads, with the exception of grading, are subject to depreciation, there is no practical method of accounting for depreciation charges on the classes of property it is proposed to omit.

In their criticism of the principle of depreciation accounting the steam railroads cited the exclusion of these items as an inconsistency indicating the weakness of the theory upon which the tentative report of the depreciation section was based. In argument, counsel for the presidents' conference committee made the following statement:

The truth is, as the carriers demonstrated, I think practically the only property they have where you can fairly estimate the approximate life are the properties that are omitted in the Depreciation Section's report, from any requirement to have reserves set up; that is, ties and rails and other track equipment.

The president of the Delaware & Hudson testified that the average life of ties, rails, etc., is known fairly accurately, and the president of the Louisville & Nashville, in referring to the classes of property for which service life can be reasonably forecast, mentioned rails, ties, ballast, and the principal items of other track material. Attention was called to the fact that the omission of these items greatly reduces the amount of property that would come within the provisions of the act, and in the brief filed in behalf of the steam railroads generally it is stated that—

leaving such a large percentage of fixed property without any depreciation reserve makes impossible the carrying out of the theory of the Depreciation Section that depreciation reserves for fixed property are necessary for the protection of the integrity of the investment, and if not set up, not only will the investment become impaired, but the operating expenses will not be truly stated.

After careful consideration of this matter, we are of the opinion that there is no sufficient reason for excluding ties, rails, other track material, and ballast from the classes of property as to which depreciation charges should be required. The difficulty of such account-

ing was, we think, exaggerated by the depreciation section. Similar difficulties are met with in the case of classes of property to which the telephone companies have for many years applied depreciation accounting. The use of the group basis which is discussed and approved in another part of this report will sufficiently simplify the problem.

There is, it is true, one special and unusual complication in connection with these classes of property. Upon retirement of other items of steam railroad property and all items of telephone property, operating expense, profit and loss or the depreciation reserve, if one be maintained, is charged with the ledger value or estimated original cost of the property retired less net salvage value and appropriate adjustments are made of investment account. The cost of any new property substituted in replacement of the old property retired is then charged in full to the latter account. In the case of ties, rails, other track material, and ballast, however, there is no adjustment of investment account when the property is retired, except in the case of abandonment or replacement of a section of line. When the property retired is replaced there is merely a charge to operating expense covering the cost of replacement in kind.[10] It follows that if the cost of replacement in kind be in excess of the ledger value there is an understatement of the investment-in-road account to that extent, and the reverse is true if the new property costs less than the old. This is recognized as inconsistent with the theory upon which our classifications are based, but it has been felt that this inconsistency could be tolerated in view of the practical advantages of such simplification of accounting. But if depreciation charges be required as to these classes of property it will be necessary to base such charges upon the ledger value of the existing property, less net salvage, and to base the retirement charges to the depreciation reserve likewise upon such value; in other words, to follow the same rule of accounting as in the case of other classes of property. We see no good reason why this should not be done. It will, indeed, tend to relieve patrons of the railroad companies from excessive charges to operating expense for replacements in kind at unit prices in excess of those incurred in connection with the installation of the old property. It is true that it will be impracticable in many cases to identify the ledger value of the particular ties, rails, track material, or ballast retired in any given case, but this difficulty may be overcome without objectionable results by using averages. This matter will be dealt with further in the discussion of the group basis of depreciation accounting.

[10] In the case of ties the practice is carried even further, for when ties are replaced otherwise than with metal ties, the full cost of the replacement, even if a betterment be involved, is charged to operating expense.

Account No. 12, "Tracklaying and surfacing," represents charges incurred in the application of ballast, ties, rails, and other track material. It thus does not represent physical property but merely certain labor costs which are incurred in the installation of the items of physical property mentioned above. Strictly speaking, these costs should be included in the costs of these items; that is, the cost of ties or rails or ballast should include not only the cost of the material but also the labor expense of installation, just as the cost of a building includes not only the cost of the materials entering into its construction but also the labor expense incident to construction. This would necessitate, however, the division of the labor costs of tracklaying and surfacing as between ties, rails, ballast, and other track material, and as such a division could only be made in some arbitrary way and with much trouble and expense, these costs, with a view to simplification of accounting, have instead been lumped in one item. The same line of reasoning makes depreciation accounting impracticable in the case of this investment item. The result of excluding this item will be that when ties, rails, ballast, and other track material are replaced the labor expense incident to the replacement will be chargeable, as under the present classification, to operating expenses at the time when this expense is incurred. This is undeniably a departure from strict theory, but it is, in our judgment, a departure which is justified by the practical difficulties of any different procedure.

In the case of account No. 13, "Right-of-way fences," the property involved is clearly depreciable, and we think it should be included in the list of property as to which depreciation charges are required. Any objection to depreciation accounting in the case of this item will, we think, be overcome by the use of the group basis hereinafter discussed and also by the provision for charging certain amounts in connection with extraordinary repairs in such cases to the depreciation reserve.

In the case of account No. 36, "Paving," depreciation accounting would seem to be practicable upon the group basis. This item will, therefore, be included as depreciable.

Account No. 38, "Roadway small tools," is made up of depreciable property. However, this item embraces so many small units with varying service lives, mainly very short, that depreciation accounting would be a matter of undue complexity and difficulty. The investment in this account is not of sufficient consequence, we think, to warrant the trouble and expense involved. It will, therefore, be excluded from the list of depreciable property.

The charges to account No. 39, "Assessments for public improvements," represent investments of a permanent character not subject,

as we understand it, to retirement. This item will, therefore, be excluded from the list of depreciable property.

Account No. 40, "Revenues and operating expenses during construction," obviously does not embrace depreciable property.

Account No. 41, "Cost of road purchased," and account No. 42, "Reconstruction of road purchased," are both clearing accounts in which amounts are lodged pending their distribution among the primary investment accounts. The application of depreciation accounting in the case of these items is impracticable.

Account No. 43, "Other expenditures—Road," includes items which can not properly be included in other investment accounts as a part of the cost of any specific work, such as the cost of transportation of men, materials, supplies and equipment over the carrier's own line, amounts paid for rent and repairs of equipment and for injuries to persons incident to and in connection with original road extension or additions and betterments and analogous items. In view of the indefinite character of these expenditures, depreciation accounting does not appear to be practicable.

Account No. 47, "Unapplied construction materials and supplies," is a temporary account for which depreciation accounting is plainly impracticable.

The general-expenditures accounts Nos. 71 to 77, inclusive, are similar in character to the items embraced under account No. 268, "Interest during construction," and account No. 270, "Undistributed construction expenditures," in the case of telephone companies. For the reasons indicated in connection with the discussion of the latter item, we are of the opinion that these general-expenditures accounts should for the present be omitted from the list of depreciable property.

(5) *We find that the classes of property of steam railroad companies for which depreciation charges may properly be included under operating expenses are the classes of property placed in this category by the tentative report of our depreciation section in No. 15100, as set forth above, and in addition the following classes of property: ties, rails, other track material, ballast, right-of-way fences, and paving.*

This finding, however, is subject to one important qualification. In case the railroad can show that its life is dependent upon a particular source of traffic, that it must be abandoned once that source is exhausted, and that such exhaustion can be predicted with a reasonable degree of accuracy, then the entire property of that railroad may be classed as depreciable. As aforesaid, it seems desirable that depreciation due to this particular factor should be handled through a special amortization account rather than through the

depreciation reserve. Instructions as to such accounting will be given at a later date. It would seem that equipment, which is movable and upon abandonment of a particular railroad can be used elsewhere, should be excluded from this treatment.

The classes of property covered by the above finding all furnish the designation of appropriate primary investment accounts. To a slight extent some of these accounts include items of nondepreciable property, and to a slight extent other primary accounts covering nondepreciable property also include depreciable items. For practical purposes, however, these deviations, which apparently are not of substantial importance, may be disregarded.

The unit basis versus the group basis of depreciation accounting.—In the tentative report in No. 15100 the depreciation section recommended that property with respect to which it is practicable to account for accrued depreciation be divided into two classes: (*a*) That which can be individualized and (*b*) that which can not be individualized. It further recommended that depreciation in the case of the former class be accounted for on the unit basis, while for the latter it recommended accounting on the group basis. In the tentative report No. 14700 this matter was not specifically discussed, but apparently it was the view of the depreciation section that the accounting should in all cases be upon the unit basis.

The difference between these two bases of depreciation accounting may be explained as follows: Under both, the depreciation charges for a particular class of property are based upon the average life expectancy of the units in the class. Under the unit plan, however, each unit is thereafter separately treated in the depreciation accounts. To illustrate: If the average service life be 30 years and the particular unit be retired at the end of 10 years, the depreciation reserve is charged only with the amount which has been charged to operating expenses and credited to the reserve on account of this unit during the 10 years; the balance of its service value is charged either to operating expense or to profit and loss as may be appropriate. On the other hand, if the particular unit be continued in service beyond the average life of 30 years, depreciation charges on its account cease at the end of 30 years. Under the group plan, depreciation charges are accrued upon all units in service regardless of their age, and upon the retirement of any unit its full service value is charged to the depreciation reserve even if that unit has not attained the average service life. The group basis can be applied separately to each class of property or it can be applied to the property as a whole.

The difference between these two bases of depreciation accounting is set forth in more detail in the following extract from the tentative

report in No. 15100, this extract also containing the reasons of the depreciation section for adhering to the unit plan in the case of all property that can be individualized:

The primary purpose of accruing depreciation charges in the accounts is to see that operating expenses are charged with the current loss resulting from depreciation of the property in service. In ascertaining these charges by far the nearest approach to accuracy is obtained by using, as a base, the unit cost of the property to be depreciated. It is then necessary to determine the average service life and the estimated salvage value of all units of the same kind or series, but not necessarily of the same cost, to obtain the percentage rate of depreciation to be applied to the unit cost. The percentage rate represents the annual charge for depreciation applicable to the depreciating unit. Thus it is obvious that operating expenses is charged with no more than is necessary to create a reserve adequate to provide for the retirement of the unit. Under the plan proposed by the committee the cost of all units of the same general character without regard to kind are combined and their aggregate cost determined as the depreciation base for the group. Thus a company possessing steel, wood, or stone bridges would take their combined cost as the basis of a uniform depreciation rate applicable to all three types.

Service lives and salvage values are of course determined as under the unit plan. The percentage rates obtained therefrom are then weighted into a composite rate which is applied to the group base. The charges thus obtained represent depreciation, not on any given unit, but upon a group of units, having varying estimated service lives and salvage values.

While this method would provide for depreciation charges to operating expenses and create a depreciation reserve, the adequacy or inadequacy of such expenses or of such reserve would be difficult, if not impossible, of determination. There is no reason why the accounting should be more simple or direct in the one case than in the other and while the group basis proposed by the depreciation committee may, to some extent, reduce the actual number of items, such reduction obviously must be made at the expense of accuracy. The practicability of the unit plan, in accounting for depreciation on equipment, has been demonstrated for a number of years. There appears to be no reason why it should not be just as practicable when applied to classes of fixed property.

The unit plan is not only desirable but necessary to determine whether or not the amounts included in the reserve represent proper depreciation charges to operating expenses for the particular property being depreciated and furthermore to determine the necessity, from time to time, for a modification of the percentage rates.

The adoption of the unit plan in the case of many classes of property would create a serious problem which was described and met in the tentative report as follows:

There are many units in the fixed property of steam roads the costs of which are relatively small when compared to the cost of other units of the same class, and unless provision is made to exclude the accrual of depreciation charges on such units there will necessarily be undue accounting refinements that will serve no useful purpose. This should not be interpreted to mean that the property in question differs from other property with respect to depreciation; it is merely a recognition of the impracticability of undertaking to account for the accruals of depreciation charges on such units.

The final recommendation was that "in applying the annual percentages of depreciation to the ledger value of the unit or group of fixed property being depreciated the carriers shall not compute depreciation charges for such units or groups the ledger value of which is less than $1,000." In the case of equipment it was recommended that no minimum be observed.

The telephone companies favor a general reserve to which may be charged, indiscriminately, service values in their entirety upon the retirement of all units of property. This seems to be the plan which most of them now follow. If depreciation accounting is to be required, the steam railroads apparently entertain views with respect to the desirability of a general reserve which are not very different from those of the telephone companies. The gas and electric light interests are emphatic in their advocacy of a single reserve. The representatives of State and municipal bodies express varying views on the subject. For example, the city of Chicago takes exception to the present practice of telephone companies, under which all depreciation charges are cleared through a single reserve, on the ground that it is impossible to compare the reserve for any particular class of property with the retirements or investment in that class.

In defending the present practice the Bell companies have this to say on brief:

> It is the established practice of telephone companies to accrue depreciation on each of the several classes of depreciable property on the basis of the average life in service of that class of property. But, obviously, this average life for the class is a resultant of the individual lives of the units of which the class is composed and these individual lives may, and normally do, show a wide range of deviation from the average. In other words, within a given class of property many items will be retired at an age much less than the average service life while, correspondingly, other items will be retired at an age considerably in excess of the average service life. This characteristic distribution of ages attained at time of retirement is commonly referred to as a "mortality curve."
>
> The present practice in accounting for depreciation recognizes the fact of mortality curve retirement. The depreciation rate is applied to the items of property while, and only so long as, they are in service. The rate of depreciation determined on the basis of the average service life of such a mortality curve and applied to the fixed capital account of the class of property characterized by this curve will make proper provision for the full original cost less net salvage of each item of that class, whether that item is retired prior to or subsequent to the expiration of the average service life. This is the correct practice.

A valid criticism of the unit plan is that while it accounts for depreciation charges and retirements on an individual basis, the charges are, in fact, based not upon individual but upon average life expectancy. It would, indeed, be impossible as a practical matter to do more than determine average prospective service life.

This having been estimated, it is recognized that certain units in the class for one reason or another will not live as long as the average and that other units will live longer. The situation may be illustrated by the case of ties and by visualizing the difficulties which would surround any attempt to estimate the prospective service life of an individual tie. Under the unit plan the retirement of units which have less than the average life throws a burden upon operating expense in addition to the burden of the depreciation charges. In other words, the depreciation charges do not in such cases cover the entire cost of retirement, but a portion of that cost must be charged direct to operating expense, as if there were no depreciation accounting. This additional burden may be offset in time by the fact that depreciation charges cease on units which live longer than the average. But it will be only by accident that this relief will in any month or year coincide with the additional burden. On the other hand, under the group plan the cost of retirement is neither in whole nor in part a burden upon operating expense, being charged in all cases in its entirety to the depreciation reserve. Depreciation charges may under certain circumstances be greater than they would be under the unit plan, due to the fact that they are accrued upon all existing units, whether or not they have passed the average service life. But there are no sporadic charges to operating expense on account of retirements and the charges for depreciation are regular and dependable.

The chief argument in favor of the unit basis seems to be that it makes it possible to check with a greater degree of accuracy the adequacy or inadequacy of the provision which is being made for depreciation. The point is, in brief, that this basis facilitates the comparison of results with theory. It is shown that the depreciation reserve is not inherently a general reserve but rather a composite result of depreciation charges based upon the facts with reference to specific items. If kept as a general reserve, the fear is that any process of analysis and verification would be difficult if not impossible. Moreover, since depreciation charges are a part of operating expense, statistical data covering the operating costs of particular railroad services would not be available, if the charges were made or the reserve kept without reference to particular items of property. On the other hand, if it can be shown that the above argument is not sound or that its importance has been overestimated, the group basis has advantages of simplicity in accounting and regularity in charges to operating expense which strongly recommend its adoption.

In our opinion, the arguments against a general reserve applicable to the entire property of a company are convincing. But it does not follow that the group basis can not with advantage be

applied to particular classes of property. Our classifications now divide the properties of steam railroad and telephone companies into certain primary groups for accounting purposes, and it is these primary investment accounts which we have considered above in determining what classes of property are and what are not depreciable. If these primary accounts can be used as the groups to which the group basis of depreciation accounting is applied, there will be obvious advantages of simplicity and the checking from time to time of the adequacy or inadequacy of the reserve will be facilitated. The only serious objection to the use of the primary accounts for this purpose, as we see it, is that not all of them are homogeneous, that is to say made up of units of the same general character. Certain of them embrace several separate and distinct kinds of units. In such cases, if the group basis is to be used, it will be necessary to determine a composite depreciation percentage for the account, determined after giving consideration and due weight to the average prospective service life of each distinct kind of unit which it includes.

While this process may appear to be attended by some degree of complexity, it is precisely the process which it would be necessary to follow on a much larger scale if the group basis were applied to the property as a whole. Yet it is such application that the telephone companies advocate and that is now in general their practice. The railroad companies also favor the application of the group basis to the entire property, if depreciation accounting is to be adopted for all classes of depreciable property, and so do certain of the State and municipal authorities. But if a composite depreciation percentage can be computed for the property as a whole, plainly the same thing can be done much more readily in the case of a primary investment account which embraces more than one distinct kind of unit. What might appear at first thought, therefore, to be a serious objection to the use of the primary accounts in the application of the group basis, upon analysis and in the light of practical experience ceases to be of significance.

Our classification has hitherto required depreciation accounting on the unit basis in the case of equipment, but if the group basis be adopted for fixed property, there seems no sufficient reason why it should not also be adopted for equipment. To this extent present accounting methods will be simplified. The group basis applied to the primary investment accounts will also make it unnecessary to provide that depreciation accounting shall not be required in the case of individual units or groups having less than a certain ledger value. The object of such a minimum limit is to avoid the expense of dealing with a multitude of details where the aggregate result is of comparative insignificance. The group basis will solve this diffi-

culty in the case of steam railroads just as it has in the case of telephone companies, inasmuch as the small items of property will all be embraced within some primary account.

(6) *We find, therefore, that the group basis of depreciation accounting should be adopted, and that it should be applied to such primary investment accounts under the respective classifications for steam railroad companies and telephone companies as include property hereinbefore found to be depreciable.*

This application of the group basis to the primary accounts will involve a separation of the depreciation reserve into parts corresponding with such accounts. It will be necessary for operating companies, also, to include within each primary account group, property listed under account No. 702, "Improvements on leased railway property" as well as under account No. 701, "Investment in road and equipment." Operating companies must further account for depreciation charges on leased property which is not shown in their own balance sheets. So far as the charges in the operating expense accounts are concerned, they must be the same for leased property as for owned property, and the operating company must keep the necessary records bearing upon such charges. More complete instructions as to the depreciation accounting in the case of leased property will be issued at a later date.

Determination of prospective service lives.—This is, after all, the crux of depreciation accounting. The accuracy of the record with respect to the consumption of property in service which such accounting is designed to afford, is wholly dependent upon the accuracy with which prospective service lives are estimated. Upon one proposition all parties are agreed, and that is that the service lives of the same kind of property vary widely in different companies. It is impossible to lay down any general rule which will apply in the case of all companies or even in the case of a particular class of companies, owing to the different conditions which surround the use of the property in each individual case. Our depreciation section, in the case of both steam railroad companies and telephone companies, recommended that the yearly percentages of depreciation (which are dependent wholly upon prospective service lives) should be ascertained in the first instance by a formula. In the case of telephone companies this formula was as follows:

> After the service life of each class of property has been estimated, ascertain by classes of property the total amount of actual retirements and the total amount of salvage for a period immediately preceding the effective date of these regulations which shall contain the same number of years as is embraced within the estimated service life of each class. Obtain therefrom the average amount of annual retirements and the average amount of annual salvage by classes.

The ratio which the average annual amount of retirements less the average annual amount of salvage, bears to the original or estimated cost of the class of property affected plus the cost of additions and betterments thereto, shall be the percentage of depreciation applicable to that class of property for the first year subsequent to the effective date of these regulations.

Practically the same formula was to be applied in determining the depreciation percentages for succeeding years. A somewhat similar formula was recommended in the case of steam railroads. In both cases, however, it was provided that we might modify the depreciation percentages ascertained by the use of the formula.

In effect this formula is nothing more nor less than an attempt to base prospective service life for the future solely upon the experience of the past. This, it seems to us, constitutes its great defect. In the first place, it is doubtful whether many companies possess the records which would make possible the application of the formula, particularly in the case of classes of property having long service lives. In the second place, and this is a still more important consideration, it is by no means an inevitable conclusion that service lives in the future will be the same as they have been in the past. Not only do types of property change in construction and character, but the conditions under which they are used change, often very radically. For example, it was pointed out in these proceedings that in recent years great progress has been achieved in the telephone industry and many improvements have been made which should result in longer service life for a great many of the items of property. There seems, indeed, to be no way in which prospective service life for the future can safely be estimated through an automatic or mechanical process. The estimate must needs be made by combining the results of actual past experience with the best available engineering advice as to the probabilities of the future.

Under such circumstances and in view of the great diversity of conditions existing among the various companies, the best that can be done is to require each company, in the first instance, to make an estimate of the prospective service lives of the various classes of property and consequent depreciation percentages for each of its primary accounts of depreciable property in the manner above prescribed, and submit the result, accompanied by a detailed exposition of the facts of record and the engineering advice upon which the estimate has been based. In some instances these percentages will, of course, be composites. In the case of steam railroads we already have an accumulated store of information gathered together in the course of the valuation work which will be of great assistance in passing upon the accuracy of these estimates. To avoid delay in inaugurating the new plan of accounting, it will doubtless be necessary for us, after such estimates and the accompanying expositions

have been filed and following an office check, to prescribe percentages of depreciation for each primary account by a temporary order subject to later revision. With this qualification, opportunity should be afforded all interested parties to examine the data submitted by each company and, if that be desired, to elicit further information by the examination of witnesses at public hearings.

In the case of telephone companies we have already suggested, in an earlier part of this report, a modification of this plan which can be employed with advantage under the unusual circumstances existing. As we there pointed out, the great bulk of telephone business is of strictly local concern, and the State commissions are much better informed and equipped than we are to pass upon the conditions surrounding this local service. Moreover the interstate commerce act now specifically authorizes us to avail ourselves of the "cooperation, services, records, and facilities of such state authorities in the enforcement of any provision of this act." An accounting precedent of interest is the fact that when our first issue of the classification of operating expenses of electric railways was made effective, all depreciation accounting was omitted except that two accounts in operating expenses were provided for use in the event that any of the State commissions prescribed depreciation accounting. In other words, the orders of the State commissions were to be controlling as to whether or not depreciation accounts should be kept. In the present instance, aid from the State commissions is not only desirable because of the essentially local character of most of the telephone service, but also because of the substantial relief which it will afford us in the burden of determining prospective service lives and depreciation percentages for the large number of telephone companies operating in this country.

We are, therefore, of the opinion that in all cases where State commissions have authority intrastate over telephone companies, the prospective service lives and depreciation percentages estimated in the first instance by such companies, with the accompanying expositions of the reasons therefor, should be transmitted to the appropriate State commission or commissions instead of to this commission, and that our temporary order prescribing depreciation percentages should be based upon the recommendations of such commissions. Further proceedings, with a view to modifications of the temporary orders, should be conducted for us by the State commissions. Where more than one State commission has jurisdiction over a particular telephone company, cooperation between such commissions can no doubt be arranged. In the event, also, that no State commission has jurisdiction or in the event that such State commission or commissions as have jurisdiction are unwilling to

assist us in the manner indicated, it will be necessary to follow the same procedure as in the case of steam railroad companies.

In estimating prospective service lives it will be necessary to determine what causes of retirement are to be regarded as factors in depreciation, so far as the particular company is concerned, and to exclude as nearly as may be the possible effect of contingencies against which the company should protect itself through insurance or which in other respects do not come within our definition of factors in depreciation. In estimating life expectancy it will be desirable, for the reasons stated in an earlier part of this report, to resolve doubts in favor of a longer rather than a shorter life. The uncertainty as to the future is such, also, that depreciation charges and percentages should be rechecked periodically so far as practicable, with the help of the State commissions in the case of telephone property to the extent that such help is available. In order that proper supervision may be exercised, it will be necessary for the companies to keep adequate property records and to maintain in convenient and accessible form engineering data bearing on the prospects of the future. This matter will be taken up with the companies by our Bureau of Accounts and we shall later enter such orders as may seem necessary providing for the maintenance of such records and data.

(7) *We find that the percentages of depreciation which shall be charged by steam railroad companies and telephone companies with respect to each primary account of depreciable property shall be determined as follows: Each such company shall estimate the percentages of depreciation which it deems applicable to the ledger value of each such primary account, such percentages being based upon service values and service lives, as hereinbefore defined, developed by a study of the company's history and experience and such engineering information as may be available with respect to future prospects. In each case such estimates shall be accompanied by sworn statements showing the bases therefor and the methods employed. In the case of steam railroad companies, such estimates and the accompanying statements shall be filed with this commission within the time prescribed in the order hereinafter entered. In the case of telephone companies such estimates and the accompanying statements shall be filed, within the time prescribed, with the State commission or commissions having jurisdiction over the particular company, except that where no State commission has jurisdiction or is willing to act in the premises they shall be filed with this commission. In the case of steam railroad companies this commission shall, after an office check, prescribe by temporary order the per-*

centages of depreciation which shall be charged with respect to each class of property of each company, and in the case of telephone companies this commission shall by temporary order prescribe similar depreciation percentages, following the recommendations of the State commissions to the extent that such advice can be procured. After the issuance of the temporary orders, opportunity shall be afforded at public hearings, if desired, for the presentation of evidence by all interested parties with a view to the modification of such orders, and for the submission to this commission of views based on such evidence. In the case of telephone companies, such public hearings shall be conducted for this commission, so far as possible, by State commissions.

The investment accounts.—From what has already been said, it will be evident that depreciation accounting requires a statement of property upon the basis of cost or a close approximation thereto, and that the form of depreciation accounting hereinbefore prescribed requires a further analysis and subdivision of the property by primary investment accounts. Where steam railroad systems have been constructed since the adoption of our uniform classification of accounts, such a record now exists. It is our understanding, also, that records and data exist as to steam railroad equipment that are adequate for the purposes of depreciation accounting, these having been made necessary by the fact that such accounting has for some years been mandatory in the case of equipment. So far as telephone companies are concerned, there seems reason to believe that most of them have adequate records and data as to all depreciable property, inasmuch as construction has in large part taken place since the adoption of our uniform classification, and inasmuch as the companies have quite generally observed depreciation accounting. If this understanding as to telephone property proves to be in error, the matter can at any time receive further attention, with the help of the State commissions.

In the case of the fixed property of steam railroads, analysis and subdivision by primary accounts and statement upon an approximate cost basis are rarities, very largely confined to instances of construction since the adoption of our uniform classification. The ordinary situation is for such property to be included in one lump sum under "Investment in road and equipment," that sum having originally been merely such figure as was necessary on the assets side to balance the liabilities in stocks and bonds.

In an earlier part of this report we have mentioned the problem thus presented and have suggested the means of meeting it. As there pointed out, it is a problem which is encountered with or without depreciation accounting. In any event, under our account-

ing system, when a unit of property is retired an amount representing its cost must be credited to investment and charged either to operating expense or to a depreciation reserve or to profit and loss. Without much doubt this matter has been loosely handled by many carriers in the past and the amounts credited and charged have been haphazard estimates dependent somewhat upon financial exigencies, and it may even be questioned whether all units that have actually been retired have been written out of investment.

This situation must be corrected, and the application of depreciation accounting to fixed railroad property makes its correction even more necessary. As has already been suggested, where actual cost data are lacking the deficiency may be supplied with an approximate accuracy sufficient for the purposes of depreciation accounting by resort to the inventories and the unit prices which have been applied in connection with our valuation work, bringing the figures up to date by the cost records of net additions and betterments which have been maintained since valuation date.

For the present it will be necessary to treat in this way only such property, other than equipment, as has hereinbefore been classed as depreciable. Equipment figures can be supplied from the data which have been compiled and are used in connection with depreciation accounting on equipment. The remainder of the lump sum now entered on the books for road and equipment may be permitted to remain as an unadjusted item representing all other primary investment accounts. If the carriers desire, however, no reason exists why the process of adjustment should not be extended to cover these other accounts, with the exception of that which consists of land. Our valuation data do not, in many and perhaps most cases, afford means of determining or approximating the original cost of land. Whether or not there should be a complete readjustment of the balance sheets of the steam railroad companies upon a value basis after the valuations under section 19a have been finally determined and brought up to date is a question which need not now be considered. The adjustment here proposed will make no change in the relation between the liabilities and the assets as a whole or in the cost basis upon which the statement of assets is now presumed to rest. Its purpose is merely to furnish with approximate accuracy the detailed record of the cost of depreciable property which is essential to a system of depreciation accounting, and indeed to the proper handling of retirements whether or not such a system is adopted. Certain questions arise, however, in connection with this adjustment.

In the first place it is possible that in certain cases the adjustment of the depreciable primary accounts in line with reproduction cost new as shown by the valuation inventories will leave a minus balance

to represent the nondepreciable items of property. This will be evidence either that the carrier has in the past charged additions and betterments to operating expenses with the result that they have not been included in the balance sheet statement, or that the inventory figures are materially in excess of what was the actual cost of the depreciable property to the accounting carrier. The instances where the latter will be the explanation will be largely confined to cases where the property of a bankrupt carrier has, because of its poor physical condition or low earning power, or both, been sold under foreclosure at a price materially below original cost, or where the property has been otherwise acquired by another carrier at a low price under similar circumstances. In such instances the use of the inventory figures would result in basing depreciation charges, contrary to theory, upon amounts materially exceeding cost, thus imposing an unnecessary and improper burden upon the operating expenses of carriers which, in general, would be ill prepared to bear such a burden.

In our judgment this is a situation which must perforce be dealt with in a somewhat arbitrary way. The method which we propose is that in all instances where the adjustment of the depreciable primary accounts to the basis of reproduction cost new as shown on the valuation inventories results in a minus balance representing the remaining nondepreciable accounts or in a plainly inadequate balance, then there shall be, subject to our approval, a proportionate reduction of the amounts shown for the depreciable accounts to the extent necessary to avoid such a result. As replacements are made, the investment accounts will gradually adjust themselves to the basis of prevailing costs.

A second question relates to ties, rail, ballast, and other track material. In the case of these items of property our classification, as has already been explained, has not required credits to investment and corresponding charges to operating expenses for retirements made necessary by renewals, but in general has required operating expenses to be charged with the cost of replacement in kind. For this reason the record of net additions and betterments since valuation date which the carriers have maintained does not show the changes in property costs which have been incident to such replacements. Other records maintained by the carriers, however, make it possible to approximate such changes in costs, and they should be included in making the adjustment of the primary accounts.

(8) *We find, therefore, that steam railroad companies shall make a subdivision or redistribution of their road and equipment investment accounts as between each of the primary accounts embracing depreciable property and all other primary accounts, determining*

the amount which shall be entered in each of the primary depreciable accounts as follows:

In the case of equipment, the amounts shall be based on the records and data now used in connection with depreciation accounting on equipment, subject to such modifications as the Bureau of Accounts may find necessary to correct possible inconsistencies.

In the case of other property installed prior to July 1, 1914, quantities and prices determined by the Bureau of Valuation, as shown by the inventories on file in said bureau, shall be used. In the case of other property installed subsequent to June 30, 1914, but prior to the date of valuation, the quantities shown by the inventory shall be used but the prices shall be the actual cost of the property as recorded under the accounting classifications of the commission. In the case of other property installed subsequent to the valuation date, actual quantities and costs shall be used as recorded under the aforesaid accounting classifications. In all cases the amounts so determined shall be recorded for each primary account by valuation sections.

The amounts which shall be entered in each of the primary depreciable accounts having thus been determined, their aggregate shall be deducted from the lump sum theretofore carried for road and equipment, and the remainder shall be carried in the investment accounts as an unadjusted item representing all other primary accounts.

In the case of ties, rail, ballast, and other track material laid since June 30, 1914, actual costs shall be used notwithstanding the provisions for replacement accounting in the effective classifications. Where actual cost is not available, average prices shall be used based on the cost of the material on hand as of the date the material was placed in track. Where the material now in track was secondhand when last placed in track, the cost shall be upon the basis of its then value as secondhand material.

Provided, however, that this finding shall be subject to the following exceptions:

(a) In the event an agreement has been or is hereafter reached between the Bureau of Valuation and the carrier with respect to cost, the agreed figures shall, when different, be substituted for the inventory figures. And in the event that a change in the inventory figures has been or is hereafter ordered by the commission, the basis so ordered shall be substituted.

(b) In case the unadjusted item remaining for all other primary accounts, after deduction of the aggregate of the adjusted primary depreciable accounts, proves to be a minus or a plainly inadequate quantity, the amounts entered in each of the primary depreciable

accounts shall be, subject to the approval of the commission, proportionately reduced to the extent necessary to avoid such a result.

It will be noted that in the above finding it is provided that the amounts determined for each primary depreciable account shall be recorded by valuation sections. In no case do these valuation sections overlap State boundaries. As a result it will be possible to estimate at any time, if that should prove necessary or desirable, the approximate amount of the depreciation reserve applicable to property located within the boundaries of a particular State.

Depreciation reserve accounting.—Under the practice ordinarily followed in depreciation accounting, the amounts charged periodically to operating expense on account of depreciation are concurrently credited to a depreciation reserve. When a unit is retired, if the group basis be followed, the investment account is credited with its cost, the material and supplies account is charged with the value of salvage recovered, and the depreciation reserve is charged with the service value, i. e., cost less net salvage value. If the unit basis be followed, the accounting procedure is the same, except that the depreciation reserve is charged only with the amount of depreciation which has previously been accrued on the particular unit in question and the remainder, if any, of the service value is charged to operating expense or to profit and loss.

We have found that the group basis of depreciation accounting should be adopted, and the procedure above set forth as applicable to that basis has our approval. There are, however, certain matters which require special discussion in this connection.

Average or individual costs.—As has been indicated, the primary accounts are differently constituted. Some, like "Ties" or "Rails," are made up of a single group of units which are homogeneous, that is to say, they differ very little one from another; others, like "Roadway buildings," are made up of a single group of units which are of the same general character but are nevertheless individual, that is to say, they differ materially one from another in size, type, etc.; others, like "Bridges, trestles, and culverts," are made up of more than one group, and these groups may be composed of homogeneous units or they may be composed of individual units. In the case of steam railroad companies, the separate costs of the units, where they are individual and relatively large, are now recorded under our classifications or, in instances where they were created prior to the adoption of those classifications, are shown in the Bureau of Valuation inventories. In the case of telephone companies, it is our understanding that similar records generally exist. But where the units are homogeneous or, although individual, relatively small and numerous, separate costs are not always available.

In the instances where separate costs of individual units are available, clearly they should be used in determining the credits to investment account and charges to depreciation reserve made necessary by retirements. But where separate costs are not available, for the reasons above indicated, it is equally clear that the credits and charges must be made upon an average basis. Detailed consideration of this matter would unduly extend this report. It may for the present be left for discussion between our Bureau of Accounts and the accounting associations of the carriers, thereafter to be covered by specific instructions to be issued by the bureau.

(9) *We find, therefore, that in determining the amounts to be respectively credited to the primary investment account and charged to the material and supplies account and to the depreciation reserve in the case of the retirement of a unit of property, amounts for specific units shall be used so far as practicable; but that where that is impracticable, because of the relatively large number and small size of the units, average amounts shall be used. Such accounting shall be in accordance with detailed instructions hereinafter to be issued by the Bureau of Accounts of the commission.*

Extraordinary repairs.—We have pointed out that if a comprehensive system of depreciation accounting is to be adopted, it is essential that means be found to charge to the depreciation reserve the cost of the piecemeal renewals which make it possible to keep so-called continuous structures in service indefinitely and of the extraordinary repairs which extend the span of life of such property as equipment. In finding (2), therefore, we so defined the terms "service life" and "service value" that such charges to the depreciation reserve would be provided for, and in this connection "extraordinary repairs" were defined to include—

> repairs involving renewals of substantial portions of a unit of property which are made in connection with the reconstruction or restoration of the unit or which involve renewals of longitudinal sections of continuous structures or the replacement of parts of such structures of a particular type by the substitution of parts of an improved type or design.

Inasmuch as "service lives" and "service values" are necessarily estimates, a general definition of the above character that makes clear the underlying principle is a sufficient guide in the determination of such lives and values, which will in all cases be subject to our check. When it comes to the amounts which shall from time to time be charged to the depreciation reserve as the "extraordinary repairs" take place, however, it is necessary to be more specific. Obviously to meet this need somewhat arbitrary rules will be required.

In the case of continuous structures the needs of the situation may be met, we think, by a rule to the following effect:

(10) *We find that where a longitudinal section of a continuous structure, such as a long trestle, right-of-way fence, snowshed, wire line, etc., is renewed in its entirety, or where parts of such structures of a particular type are replaced by the substitution of parts of an improved type or design, such as the substitution of concrete for wooden posts in a fence or of copper for steel wire in a telephone line, the ledger value of the property so retired, determined by taking a proper proportionate part of the total ledger value of the continuous structure, shall be credited to the investment account and the same amount, after deducting net salvage value, shall be charged to the depreciation reserve.*

In the case of "extraordinary repairs" involved in the reconstruction or restoration of such property as railroad equipment, the most feasible plan seems to be to provide that when the total cost of repairs to a unit exceeds, say, $100 and also exceeds, say 15 per cent of its ledger value, then the cost of such repairs in excess of 15 per cent shall be charged to the depreciation reserve, with the proviso that if the cost exceeds, say, 80 per cent of the ledger value, the unit shall be deemed to have been retired from service and accounted for accordingly. Such a rule as this is arbitrary, and it is also defective in theory in that the cost of the repairs instead of the service value of the renewed parts is charged to the reserve. However, it meets practical difficulties which theoretically correct accounting would in such cases entail, and is in our judgment sufficiently accurate for practical purposes. The precise figures to be used in the rule, however, require careful consideration, and it may be that different figures should be used for the different property units. For the present we shall merely indicate the general character of the rule to be established, leaving its precise terms to be determined later by the Bureau of Accounts after discussion with representatives of the carriers' accounting associations.

(11) *We find that when the total cost of repairs to a particular unit of property exceeds a certain minimum sum and also exceeds a certain minimum percentage of the ledger value of said unit, then the cost of such repairs, in excess of said minimum percentage shall be charged to the depreciation reserve; provided, however, that if the total cost exceeds a certain maximum percentage of the ledger value, the unit shall be deemed to have been retired from service and shall be accounted for accordingly. The minimum and maximum figures to be used in the application of this rule shall be covered by instructions to be issued by the Bureau of Accounts of the commission.*

Retirements for causes which are not factors in depreciation.—In defining "depreciation" we have recognized that there are certain causes of the retirement of property which can not properly be regarded as factors in depreciation. Such are contingencies, like fires, which can not be foreseen and against which insurance is the appropriate means of protection, and also sudden and unforeseeable improvements in the art or similar public requirements. But while such causes of retirements ought not to be taken into consideration in determining prospective service lives, simplicity in accounting demands, we think, that when such retirements occur the full loss in service value should be charged to the depreciation reserve. Compensation for such charges, which the depreciation reserve will theoretically not have been built up to meet, may be obtained in two ways.

In the case of a retirement due to a cause which is not recognized as a factor in depreciation but against which the carrier is protected by insurance, compensation may be obtained by crediting to the depreciation reserve the full amount of the insurance recovered.

In the case of a retirement due to a cause which is not recognized as a factor in depreciation and against which the carrier is not insured, if it can be shown by the carrier that the charge to the depreciation reserve resulting from the retirement will unduly deplete that reserve, the amount charged to operating expenses on account of depreciation may be increased, with our approval, over a period of years in the future to the extent necessary to make good such depletion. This will in effect be similar to the present rule, which permits retirements that would unduly distort the operating expenses of a single year to be spread, with our approval, over the operating expenses of a period of years.

(12) *We find that when depreciable property is retired the loss in service value shall, whether or not the cause of the retirement is a recognized factor in depreciation, be charged in its entirety to the depreciation reserve; provided, however, that*

(*a*) *If the cause of retirement is not a recognized factor in depreciation but is a cause against which the carrier is insured, the depreciation reserve shall be credited with the full amount of the insurance recovered.*

(*b*) *If the cause is not a recognized factor in depreciation nor covered by insurance, the carrier may, upon proof that the charge will result in undue depletion of the depreciation reserve and with the approval of the commission, increase the amount charged each year to operating expenses on account of depreciation over a period of years in the future to the extent necessary to make good such depletion.*

Past depreciation unprovided for.—In the case of steam railroads, and perhaps to some extent in the case of telephone companies, a difficulty which will be encountered is that as a rule depreciation accounting has not in the past been observed with respect to fixed property. In such cases there is no depreciation reserve which now covers that part of the service value of existing units which has already been consumed. The theoretically correct way of meeting this situation would be to establish the amount of past accrued depreciation which has not been provided for, and concurrently credit this amount to the depreciation reserve and charge it to profit and loss. It is the latter account which has profited in the past from the failure or partial failure to accrue depreciation charges. In view of the fact that such procedure might, in some and perhaps in many instances, result in converting a profit and loss surplus into a deficit with a consequent impairment of credit, it seems desirable that for the present the amount so credited to the depreciation reserve should be concurrently charged to a suspense account on the assets side of the balance sheet, instead of to profit and loss. This suspense account could then be gradually extinguished by charges to profit and loss over a maximum period of years or in such shorter time as the carrier might elect. The precise method of handling this account, however, need not be determined in this report, but can be separately considered later. It is possible that it should be considered in connection with possible balance sheet changes following the determination of valuations under section 19a.

(13) *We find that in the case of steam railroad companies an estimate should be made, as of the date when the system of depreciation accounting herein prescribed is made effective and in accord with the principles hereinbefore set forth, of the past accrued depreciation in the property unprovided for by a depreciation reserve, and that the amount so estimated should concurrently be credited to the depreciation reserve and charged to a suspense account on the assets side of the balance sheet. Such estimates of past accrued depreciation unprovided for shall be made by the carrier, subject to check and revision by the commission.*

No similar finding is made in the case of telephone companies, in view of the fact that these companies for the most part have for some years observed a comprehensive system of depreciation accounting. If need for a provision similar to the above should later develop in the case of certain telephone companies, the matter will at that time receive consideration.

Road and equipment account No. 42, "Reconstruction of road purchased," reads as follows:

When a road is purchased and the fixed improvements acquired are in such a physical condition that it is necessary substantially to rebuild the road in order to bring it up to the standard required by the carrier, the cost of such rebuilding shall be charged to this account.

In such cases it is provided that a comprehensive statement of the estimated amount necessary to reconstruct the road shall be made to the commission as soon as the estimate is made. There is a similar provision in the case of equipment. The theory upon which these provisions are based is that allowance has been made in the purchase price for past accrued depreciation. To the extent that it can be shown that such allowance has been made in the purchase price it is evident that the past accrued depreciation ought not to be covered by the depreciation reserve.

Operating expense adjustments.—It has been suggested that, if depreciation accounting is to be required, it might be well for convenience in comparisons to maintain a form of double-entry accounting in the maintenance subdivisions of operating expense. Stated more specifically, the suggestion is that in the case of retirements or extraordinary repairs the amounts involved should be charged to the appropriate primary accounts in maintenance expense, and that concurrently corresponding amounts should be released from the depreciation reserve to special credit accounts provided for that purpose under maintenance expense. The net result of this procedure would be the same as though the amounts in question were charged direct to the depreciation reserve, but the plan undoubtedly has advantages in connection with the analysis and comparison of expenditures. In our opinion it should be adopted, and we so find. Appropriate provision for such a plan is made in the orders hereinafter entered.

Ordinary maintenance expenditures.—In connection with the hearings on the tentative report in No. 15100 we invited answers to the following question:

Is it practicable and desirable, in addition to accounting for depreciation, to prescribe an accounting rule under which carriers will be required to show, for each month or year, the extent to which proper maintenance of the property has been deferred?

We have pointed out, in an earlier part of the report, that even if depreciation accounting be prescribed, it will still be possible for carriers, by deferring or neglecting proper expenditures for ordinary repairs and other forms of maintenance, to impair the record which the accounts should afford of the actual costs of operation, including not only the costs which have been met but also those which have accrued. It was for this reason that the above question was asked. No particularly helpful answers were

given, and it seems to be the general impression that there is no practicable method by which the result desired can be assured through any accounting rule. It was suggested, however, that it would be practicable to require a company to make a sworn statement each year with respect to this matter at the time when its annual report to us is rendered and as a part of such report, thus affording both the commission and the interested public more information, at least, than is now available. While the matter of ordinary maintenance expenditures is not, strictly speaking, within the scope of these proceedings, it nevertheless has a bearing upon the subject of depreciation accounting. Just as the life expectancy of property may be extended by reconstruction repairs, so it may be curtailed by neglect of ordinary maintenance. This is, in effect, recognized in our valuation work, where consideration is given to the actual physical condition of property, as disclosed by inspection, as well as to its normal service life, in determining the extent to which depreciation exists. It is, therefore, desirable that in prescribing depreciation percentages and charges we should be informed, so far as possible, in regard to the upkeep of the property. In cases where ordinary maintenance is neglected or deferred, it may well be desirable to require some increase in depreciation charges, particularly if the neglect continues over any considerable period of time. The method by which such information in regard to upkeep may be secured is a matter which plainly deserves more consideration than it has yet received. For the present, however, we adopt the suggestion that sworn statements as to this matter by primary accounts be included in the annual reports. Provision for such statements is made in one of the orders hereinafter entered.

In conclusion.—The criticism most commonly urged against depreciation accounting and the plea most commonly offered for the retirement method is that the former is purely speculative while the latter rests upon a solid foundation of fact. Both arguments are fallacious. Depreciation accounting is speculative only in that it applies to the future conclusions drawn partly from past experience and partly from thorough knowledge of existing facts; the retirement method is, no doubt, founded on fact but it neglects to take into account all the facts. Strict logic would require that the advocates of the retirement method should neglect to take into account accrued interest, accrued rentals, accrued taxes and audited vouchers, until such interest, taxes and vouchers should have been actually paid. True, these and similar items can in general be estimated with greater mathematical accuracy, but it does not follow from this fact that depreciation charges can not be calculated with a sufficient degree of accuracy to achieve their purpose.

With retirement accounting the books furnish a record which may be a wholly untrustworthy reflection of the facts. This has been demonstrated by experience time and again. By postponing needed retirements a company may make a showing of earnings which is designed to mislead investors and which will accomplish that result in the absence of an inquiry extending beyond the face of the accounts. On the other hand, by concentrating or accelerating retirements a company may, at least for a time, conceal prosperity which it does not wish to disclose. Even if there be no intent to mislead or deceive, the irregularity in retirements which is often inevitable may, and frequently does, produce that result. The facts in regard to the constantly accruing consumption of capital in service are not recorded; the record is in all cases deferred until the consumption is complete.

Depreciation accounting with all its difficulties is, we are persuaded, a method which will produce a much more nearly accurate reflection of the facts than will retirement accounting. While we do not minimize the difficulties and possible dangers, we are confident that in the course of actual practice and experience they will continually decrease in importance. In the early days of every form of public supervision of private enterprise the difficulties to be encountered create alarm by their apparent multitude and magnitude. In actual practice they gradually lose their formidable character as principles are developed and precedents set. So it will be with depreciation accounting.

Owing to the radical change in present methods of accounting which are involved in the case of steam railroad companies, the orders hereinafter entered are made effective on January 1, 1928, in order that there may be an adequate period of preparation.

WOODLOCK, *Commissioner*, concurring:

I am in accord with the main principle expressed in this report. Most of the confusion of thought expressed in past discussion of the subject of depreciation in general and the necessity for depreciation accounting and depreciation reserves grows out of the failure to recognize the vital connection of the subject with the subject of valuation. If, as seems certain, "present value" for rate-making purposes is to base largely upon reproduction cost, depreciation accounting by the straight-line method is absolutely necessary for preservation of the rights of carrier property owners. If original cost in any of its forms were to be the norm of value, then a fairly good case might be made by large and long-established carriers against the necessity for depreciation accounting at all, even by the sinking-fund method, because under the original-cost method of valuation no deduction from original cost for accrued depreciation,

as distinguished from functional depreciation resulting from undermaintenance, is required. There is, however, no present necessity to berate for loose logic contestants on either side of the argument as it has been conducted up to this time, for there is no essential dispute concerning the fundamental fact. Depreciation accrues in all properties, composite or otherwise, is in some form a necessary charge upon the rates for service, should be so charged if accounts are properly to represent the facts, and, if properly assessed and charged, is neither undue burden nor undue benefit to anyone. The courts having definitely committed themselves to the reproduction-cost method of ascertaining present value, straight-line depreciation accounting and depreciation reserves become a necessity. To that extent I agree with the report.

I do not agree with the view that the arguments against a general depreciation reserve, applicable to the entire property of a carrier, are "convincing" so far as the future is concerned. They are, no doubt, strong as applied to present practice in present conditions, but if a composite percentage can safely be applied to a group of property units, I fail to see why the same principle is not ultimately possible of application to a property as a whole, provided that that property continues reasonably stable as regards its composition. Time and experience will, however, be required to lay the foundation for application of general percentages; for the present it is perhaps sufficient to apply the group basis where it may prove to be convenient. The report, furthermore, fails to include in the items which it lists as depreciable property certain items which in the ascertainment of reproduction cost less depreciation are subjected to depreciation. I see no logic or justice in this. If we are to have depreciation accounting, account should be taken of every item depreciable in valuation, and depreciation reserves should be created for all such items. If this be not done an undue burden will be imposed upon property owners. That the items omitted are not many and not large is no reason for their omission—rather it is the reverse. Furthermore, I see no reason for requiring carriers to subdivide investment accounts upon their books in the manner prescribed by the report. It may be that our valuation inventories at 1914 prices do correspond fairly well to actual construction costs over a substantial period of years prior to 1914. The evidence supporting this statement, however, is not of record, and even if it were true it would still be unnecessary to require the carriers now to place upon their books figures reached in this way in lieu of their present investment accounts. These figures can easily be made the basis for setting up depreciation reserves (where such basis is not offered by the books) without placing them actually

on the books. That is all that is necessary to enable the proper accounting to be made. It will be time enough to require a restatement of investment accounts upon carrier books when, as, and if, a really final determination of "present value" shall have been made.

APPENDIX A—PART 1

Credits made to investment accounts for equipment retired by representative carriers in eastern, western, and southern groups for the years 1914 to 1923, inclusive. (Compiled from Exhibit 10 in No. 15100, supplemented by data shown in annual reports. Where no figures are shown the information was not available)

EASTERN GROUP

Year ended—	B. & O.	N. Y. C. lines	N. Y., N. H. & H.	Penn.	Wabash	Erie
June 30, 1914	$3,764,886.13		$793,119.60	[1] $2,523,976.45 [2] 6,139,152.16		$913,299.27
June 30, 1915	6,562,639.86	[3] $2,231,105.92	958,195.34	[1] 781,060.24 [2] 6,205,706.44	$149,485.15	2,002,370.51
June 30, 1916	6,028,757.87	8,958,303.37	676,546.17	[1] 1,129,441.34 [2] 6,691,468.35	79,897.85	7,515,301.57
Dec. 31, 1916	3,608,086.33	8,052,635.05	521,414.53	[1] 1,299,573.59 [2] 6,766,115.15	269,600.11	3,606,924.95
Dec. 31, 1917						
Dec. 31, 1918						
Dec. 31, 1919	1,139,046.87	2,424,030.75			118,856.29	1,244,006.67
Dec. 31, 1920	2,561,360.50	3,652,330.71	300,822.91	3,715,359.15	242,151.66	2,138,667.46
Dec. 31, 1921	2,126,268.96	6,397,410.85	364,365.34	2,506,118.14	827,431.98	1,156,637.32
Dec. 31, 1922	4,675,471.61	7,976,882.98	655,832.09	3,801,921.48	946,624.05	4,851,638.96
Dec. 31, 1923	7,096,958.88	19,140,247.30	2,556,232.25	4,867,515.84	2,737,658.09	8,630,466.72

[1] Western lines.
[2] Eastern lines.
[3] Covers a period of only six months, as the consolidation of the N. Y. C. lines became effective January 1, 1915

WESTERN GROUP

Year ended—	A., T. & S. F.	C., R. I. & P.	C., M. & St. P.	St. L. & S. F.	Sou. Pac.	U. P.	Mo. Pac.
June 30, 1914	$727,432.57	$581,069.85	$1,109,549.66	$548,797.43		$916,299.53	$227,438.70
June 30, 1915	1,039,074.07	489,138.21	924,611.45	2,247,942.50	$1,313,710.10	876,125.71	212,256.07
June 30, 1916	974,634.68	1,285,526.60	1,077,935.25	1,318,728.06	2,324,935.61	1,710,994.21	1,126,938.45
Dec. 31, 1916	906,287.11	674,319.75	1,025,104.76	2,278,345.01	2,721,628.97	1,626,421.02	752,494.78
Dec. 31, 1917							
Dec. 31, 1918							
Dec. 31, 1919		588,085.60	2,442,584.18	337,857.95	665,399.40	414,665.08	290,316.79
Dec. 31, 1920	1,426,651.31	319,113.92	2,811,031.20	394,033.31	2,992,125.55	298,707.66	277,782.88
Dec. 31, 1921	1,096,311.12	129,192.28	1,784,909.70	4,903,289.06	871,560.74	740,897.83	913,391.95
Dec. 31, 1922	2,402,344.49	628,485.43	2,898,533.11	3,883,583.57	683,601.32	362,855.86	2,525,604.19
Dec. 31, 1923	2,402,232.81	2,842,361.25	6,052,663.11	4,818,133.51	5,037,450.96	1,620,319.52	4,463,861.12

SOUTHERN GROUP

Year ended—	A. C. L.	C. & O.	Ill. Cent.	Seaboard	Southern	Cent. of Ga.
June 30, 1914	$758,082.50	$1,018,631.29	$1,392,453.83	$176,949.74	$2,112,844.50	$158,245.03
June 30, 1915	753,976.13	686,218.40	2,593,021.27	236,053.33	3,188,409.52	288,608.52
June 30, 1916	764,372.00	2,457,028.31	1,789,106.68	218,631.23	3,671,143.24	190,081.93
Dec. 31, 1916	704,636.00	2,024,225.01	2,938,500.65	287,231.71	4,105,123.73	278,711.48
Dec. 31, 1917						
Dec. 31, 1918						
Dec. 31, 1919	498,894.00	292,925.87	728,505.96	314,533.68	67,625.63	
Dec. 31, 1920	401,477.28	765,628.43	701,095.68	1,495,919.19	1,698,720.66	257,639.98
Dec. 31, 1921	682,279.00	926,249.62	3,926,089.42	177,666.01	771,986.20	228,387.52
Dec. 31, 1922	1,400,898.00	831,772.78	7,661,251.55	4,766,711.84	3,954,799.75	521,663.79
Dec. 31, 1923	1,500,351.00	[4] 10,996,968.34	7,366,770.47	6,137,349.26	7,468,406.62	591,325.27

[4] The annual reports of the Chesapeake & Ohio Railway Company show that the freight-train car units retired during the years 1920, 1921, 1922, and 1923 were 840, 900, 824, and 10,624, respectively.

APPENDIX A—PART II

Quantity of ties and rails laid in replacement and betterment, with mileage operated for the years 1914 to 1923, inclusive, by representative roads in eastern, western, and southern groups. (Compiled from annual reports. Where no figures are shown the information was not available.)

EASTERN GROUP

Year ended—	Mileage operated (single track)	Ties laid in previously constructed tracks		Rails laid in replacement and betterment
		Crossties	Switch and bridge ties	
Baltimore & Ohio	*Miles*	*Number*	*Board feet*	*Tons*
June 30, 1914	4,478	1,766,510		57,332
June 30, 1915	4,535	2,070,833	6,550,283	65,009
June 30, 1916	4,539	3,354,665	8,303,630	111,598
Dec. 31, 1916	4,545	2,479,192	7,919,340	117,304
Dec. 31, 1917	4,945	1,907,596	7,537,478	107,506
Dec. 31, 1918	5,152	1,915,384	13,962,355	89,310
Dec. 31, 1919	5,154	2,461,941	10,554,637	61,433
Dec. 31, 1920	5,155	2,576,398	9,914,904	106,237
Dec. 31, 1921	5,187	2,318,465	6,643,184	63,070
Dec. 31, 1922	5,212	2,097,880	7,066,753	84,571
Dec. 31, 1923	5,304	2,109,376	7,572,211	131,988
New York Central				
June 30, 1914				
June 30, 1915	[1] 5,969	[1] 1,975,482	[1] 3,681,441	[1] 62,721
June 30, 1916	6,093	3,312,717	9,249,511	187,076
Dec. 31, 1916	6,083	3,356,753	9,872,792	149,272
Dec. 31, 1917	6,079	3,283,666	9,740,432	151,464
Dec. 31, 1918	6,076	3,301,012	11,572,174	158,831
Dec. 31, 1919	6,069	3,042,380	13,488,242	156,417
Dec. 31, 1920	6,078	3,900,522	10,468,909	122,839
Dec. 31, 1921	6,098	3,165,761	11,752,276	208,297
Dec. 31, 1922	6,899	3,376,581	13,492,114	215,237
Dec. 31, 1923	6,890	3,076,493	15,161,125	271,429
New York, New Haven & Hartford				
June 30, 1914	2,003	2,060,485		25,784
June 30, 1915	2,005	1,997,593	6,394,334	45,033
June 30, 1916	2,005	922,397	5,372,275	34,413
Dec. 31, 1916	1,988	1,023,197	5,219,031	25,206
Dec. 31, 1917	1,997	1,166,082	3,173,327	17,384
Dec. 31, 1918	1,992	1,104,362	5,318,615	25,397
Dec. 31, 1919	1,966	1,683,011	5,764,397	20,963
Dec. 31, 1920	1,986	1,324,419	3,875,679	38,843
Dec. 31, 1921	2,004	1,907,198	6,174,378	21,635
Dec. 31, 1922	2,001	1,796,458	5,126,935	40,462
Dec. 31, 1923	2,001	1,239,449	4,424,137	42,388
Pennsylvania (lines east and lines west)				
June 30, 1914	5,834	4,183,228	[2] 14,547	85,533
June 30, 1915	6,285	5,297,663	18,005,303	169,481
June 30, 1916	6,289	3,921,534	16,249,653	235,161
Dec. 31, 1916	6,291	3,666,035	17,155,985	193,092
Dec. 31, 1917	6,296	2,983,409	13,075,371	175,677
Dec. 31, 1918	7,115	2,778,007	14,649,140	132,915
Dec. 31, 1919	7,131	3,673,522	15,216,443	156,454
Dec. 31, 1920	7,322	3,659,510	16,879,832	182,381
Dec. 31, 1921	7,315	4,219,559	14,760,776	238,897
Dec. 31, 1922	10,534	5,710,859	21,722,213	254,829
Dec. 31, 1923	10,510	5,147,766	21,624,654	243,320
Wabash				
June 30, 1914	2,515	1,120,932		18,290
June 30, 1915	2,519	1,257,958	2,172,960	13,374
June 30, 1916	2,519	829,023	1,503,877	14,675
Dec. 31, 1916	2,519	757,300	1,408,227	20,574
Dec. 31, 1917	2,519	846,593	1,612,765	12,874
Dec. 31, 1918	2,504	810,133	1,941,019	14,506
Dec. 31, 1919	2,473	1,012,180	2,572,499	11,016
Dec. 31, 1920	2,473	1,228,639	3,359,203	36,699
Dec. 31, 1921	2,473	1,103,901	1,437,846	21,086
Dec. 31, 1922	2,473	1,242,641	1,219,235	26,417
Dec. 31, 1923	2,487	1,295,559	2,076,753	35,749

[1] Last six months only, viz, Jan. 1, 1915, to June 30, 1915.

[2] Lineal feet.

***Quantity of ties and rails laid in replacement and betterment, with mileage operated for the years 1914 to 1923, inclusive, by representative roads in eastern, western, and southern groups*—Continued**

EASTERN GROUP—continued

Year ended—	Mileage operated (single track)	Ties laid in previously constructed tracks		Rails laid in replacement and betterment
		Crossties	Switch and bridge ties	
Erie	*Miles*	*Number*	*Board feet*	*Tons*
June 30, 1914	1,988	1,042,422		40,081
June 30, 1915	1,988	1,143,305	2,597,076	54,735
June 30, 1916	1,988	609,628	2,255,424	51,277
Dec. 31, 1916	1,988	636,023	1,878,881	43,928
Dec. 31, 1917	1,989	757,610	2,409,841	28,863
Dec. 31, 1918	1,989	643,551	2,662,116	38,894
Dec. 31, 1919	1,989	686,130	2,218,987	37,369
Dec. 31, 1920	1,989	579,546	1,918,591	37,925
Dec. 31, 1921	2,169	1,021,025	2,601,392	56,175
Dec. 31, 1922	2,169	1,037,145	3,758,598	60,466
Dec. 31, 1923	2,184	900,410	3,756,721	58,915
WESTERN GROUP				
Atchison, Topeka & Santa Fe				
June 30, 1914	8,310	2,432,082		38,557
June 30, 1915	8,513	2,457,141	6,427,170	111,252
June 30, 1916	8,648	2,742,679	5,361,122	103,963
Dec. 31, 1916	8,648	2,664,113	6,808,818	107,011
Dec. 31, 1917	8,630	2,237,280	4,742,196	72,756
Dec. 31, 1918	8,625	2,293,147	4,498,582	59,524
Dec. 31, 1919	8,662	1,931,376	5,062,991	70,258
Dec. 31, 1920	8,850	2,246,313	4,668,553	81,309
Dec. 31, 1921	8,863	1,990,371	3,475,409	83,573
Dec. 31, 1922	8,865	2,228,522	3,259,441	164,478
Dec. 31, 1923	8,932	1,766,015	2,529,303	115,649
Chicago Rock Island & Pacific				
June 30, 1914	7,852	2,323,312		18,904
June 30, 1915	7,855	2,225,464		27,838
June 30, 1916	7,548	2,459,669	5,158,050	58,319
Dec. 31, 1916	7,655	2,118,729	5,649,746	58,950
Dec. 31, 1917	7,824	1,723,738	3,373,410	43,657
Dec. 31, 1918	7,732	1,553,357	3,599,270	35,281
Dec. 31, 1919	7,596	1,547,339	4,770,521	26,150
Dec. 31, 1920	7,663	1,859,629	8,119,372	53,753
Dec. 31, 1921	7,662	1,620,480	7,130,548	72,692
Dec. 31, 1922	7,635	1,451,331	7,020,559	59,789
Dec. 31, 1923	7,635	1,337,988	4,250,465	46,299
Chicago, Milwaukee & St. Paul				
June 30, 1914	9,987	3,108,873		73,694
June 30, 1915	10,076	3,029,107	7,443,450	64,483
June 30, 1916	10,208	3,063,154	5,790,123	80,032
Dec. 31, 1916	10,208	2,652,988	5,596,031	73,635
Dec. 30, 1917	10,305	1,880,662	6,568,842	36,330
Dec. 30, 1918	10,273	2,090,345	5,808,741	39,493
Dec. 31, 1919	10,629	3,098,751	4,317,093	52,830
Dec. 31, 1920	10,620	2,902,523	5,112,058	29,911
Dec. 31, 1921	11,030	2,268,442	5,549,609	31,680
Dec. 31, 1922	11,025	3,031,544	7,432,229	32,960
Dec. 31, 1923	10,990	3,750,523	9,811,465	62,685
Missouri Pacific (including St. Louis, Iron Mountain & Southern)				
June 30, 1914	7,285	3,903,758		25,880
June 30, 1915	7,293	3,132,187	5,919,948	40,671
June 30, 1916	7,486	4,125,927	5,631,757	44,318
Dec. 31, 1916	7,482	3,273,071	8,615,033	82,365
Dec. 31, 1917	7,302	3,157,090	9,451,850	50,206
Dec. 31, 1918	7,108	2,501,521	6,809,612	36,602
Dec. 31, 1919	7,320	2,851,559	10,561,298	34,924
Dec. 31, 1920	7,300	2,936,764	8,519,748	44,136
Dec. 31, 1921	7,301	2,883,770	9,835,013	44,966
Dec. 31, 1922	7,149	3,222,970	11,910,747	42,097
Dec. 31, 1923	7,364	2,599,679	12,004,892	44,502

***Quantity of ties and rails laid in replacement and betterment, with mileage operated for the years 1914 to 1923, inclusive, by representative roads in eastern, western, and southern groups*—Continued**

WESTERN GROUP—continued

Year ended—	Mileage operated (single track)	Ties laid in previously constructed tracks		Rails laid in replacement and betterment
		Crossties	Switch and bridge ties	
St. Louis-San Francisco	*Miles*	*Number*	*Board feet*	*Tons*
June 30, 1914	4,746	3,263,182		13,313
June 30, 1915	4,749	1,265,222	2,171,718	59,648
June 30, 1916	4,752	1,781,191	3,873,079	55,908
Dec. 31, 1916	4,752	1,549,152	4,932,531	47,659
Dec. 31, 1917	4,761	1,362,313	4,473,361	40,801
June 30, 1918	4,761	1,253,357	4,805,972	45,153
June 30, 1919	4,757	1,244,096	4,980,659	51,624
June 30, 1920	4,761	1,722,550	4,499,854	41,163
June 30, 1921	4,761	1,140,409	4,307,121	19,416
June 30, 1922	4,752	1,467,219	5,391,591	34,551
June 30, 1923	4,748	1,372,574	5,953,286	36,748
Southern Pacific				
June 30, 1914	6,492	2,021,476		24,585
June 30, 1915	6,517	2,188,581	4,754,375	38,373
June 30, 1916	6,930	2,416,978	8,140,583	81,115
Dec. 31, 1916	7,065	2,152,805	6,277,500	72,419
Dec. 31, 1917	7,103	1,945,716	4,781,159	49,500
Dec. 31, 1918	7,050	2,666,107	6,000,699	51,921
Dec. 31, 1919	7,024	2,640,844	7,711,841	62,001
Dec. 31, 1920	7,118	2,751,551	6,765,847	61,829
Dec. 31, 1921	7,119	2,574,206	7,279,175	80,520
Dec. 31, 1922	7,117	2,159,823	6,333,448	54,379
Dec. 31, 1923	7,138	2,316,406	6,883,346	90,174
Union Pacific				
June 30, 1914	3,616	1,221,284		12,138
June 30, 1915	3,617	1,390,575	475,717	31,129
June 30, 1916	3,622	1,762,030	2,516,604	73,825
Dec. 31, 1916	3,622	1,526,880	2,120,507	79,919
Dec. 31, 1917	3,630	1,262,563	4,420,122	37,160
Dec. 31, 1918	3,615	1,281,524	4,153,853	26,876
Dec. 31, 1919	3,614	1,195,245	4,030,826	98,107
Dec. 31, 1920	3,614	1,322,824	3,211,056	112,017
Dec. 31, 1921	3,665	1,157,598	2,754,632	52,350
Dec. 31, 1922	3,709	1,272,809	3,108,890	57,020
Dec. 31, 1923	3,715	1,242,288	4,275,401	67,111

SOUTHERN GROUP

Atlantic Coast Line				
June 30, 1914	4,661	1,970,894	8,421,796	23,877
June 30, 1915	4,698	2,034,209	6,723,106	14,860
June 30, 1916	4,744	2,134,917	7,731,318	13,433
Dec. 31, 1916	4,774	2,065,562	7,241,686	28,610
Dec. 31, 1917	4,787	1,871,183	6,450,342	13,877
Dec. 31, 1918	4,840	1,626,096	5,634,500	23,349
Dec. 31, 1919	4,894	1,859,153	7,339,155	39,710
Dec. 31, 1920	4,888	1,914,929	5,994,461	33,156
Dec. 31, 1921	4,849	1,675,820	5,466,521	42,535
Dec. 31, 1922	4,860	1,645,026	3,773,560	48,135
Dec. 31, 1926	4,862	1,596,010	4,788,773	54,135
Chesapeake & Ohio				
June 30, 1914	2,367	934,130		13,645
June 30, 1915	2,372	1,694,462	3,884,008	16,927
June 30, 1916	2,386	1,765,059	5,341,350	41,212
Dec. 31, 1916	2,381	1,615,111	3,632,927	36,347
Dec. 31, 1917	2,478	1,467,696	2,880,338	41,768
Dec. 31, 1918	2,485	1,151,822	2,610,083	26,38-
Dec. 31, 1919	2,517	1,108,146	4,616,819	50,258
Dec. 31, 1920	2,539	1,042,079	3,917,058	26,408
Dec. 31, 1921	2,548	1,087,759	3,979,665	52,170
Dec. 31, 1922	2,551	1,255,239	5,318,173	39,179
Dec. 31, 1923	2,553	1,133,566	4,854,502	50,194

Quantity of ties and rails laid in replacement and betterment, with mileage operated for the years 1914 to 1923, inclusive, by representative roads in eastern, western, and southern groups—Continued

SOUTHERN GROUP—continued

Year ended—	Mileage operated (single track)	Ties laid in previously constructed tracks		Rails laid in replacement and betterment
		Crossties	Switch and bridge ties	
Illinois Central	*Miles*	*Number*	*Board feet*	*Tons*
June 30, 1914	4,769	2,223,117		54,504
June 30, 1915	4,767	2,195,980	5,449,241	53,575
June 30, 1916	4,767	2,110,328	6,397,676	73,823
Dec. 31, 1916	4,766	1,956,496	5,395,669	64,709
Dec. 31, 1917	4,766	1,589,107	4,257,062	49,132
Dec. 31, 1918	4,782	1,387,903	4,637,633	44,875
Dec. 31, 1919	4,800	1,641,403	4,347,242	112,496
Dec. 31, 1920	4,799	1,960,976	6,164,866	104,131
Dec. 31, 1921	4,799	2,077,595	8,401,721	86,471
Dec. 31, 1922	4,785	1,991,999	6,193,420	76,644
Dec. 23, 1923	4,845	1,795,436	8,441,305	87,216
Seaboard Air Line				
June 30, 1914	3,098	1,373,362		21,031
June 30, 1915	3,123	1,341,457	2,921,928	6,374
June 30, 1916	3,449	1,594,011	3,392,767	24,402
Dec. 31, 1916	3,461	1,650,085	3,912,372	25,688
Dec. 31, 1917	3,461	1,261,591	3,366,230	21,769
Dec. 31, 1918	3,503	1,375,763	3,069,670	13,651
Dec. 31, 1919	3,563	1,380,075	2,972,667	13,362
Dec. 31, 1920	3,563	1,328,849	4,492,135	15,987
Dec. 31, 1921	3,563	1,322,005	2,136,912	7,716
Dec. 31, 1922	3,576	1,604,174	4,786,085	11,494
Dec. 31, 1923	3,572	1,708,978	5,696,396	32,079
Southern Railway system				
June 30, 1914	7,010	3,746,725		29,977
June 30, 1915	7,022	3,749,494	10,506,803	63,574
June 30, 1916	7,039	3,993,022	13,484,681	72,023
Dec. 31, 1916	6,983	3,695,543	12,771,238	65,741
Dec. 31, 1917	6,983	3,154,898	8,743,763	66,371
Dec. 31, 1918	6,984	2,623,068	10,828,578	60,058
Dec. 31, 1919	6,984	3,019,546	13,475,933	35,052
Dec. 31, 1920	6,971	3,234,779	9,998,448	20,834
Dec. 31, 1921	6,971	3,704,737	12,306,093	49,531
Dec. 31, 1922	6,971	4,178,770	13,595,431	57,763
Dec. 31, 1923	6,971	4,233,094	15,491,764	94,684
Central of Georgia				
June 30, 1914	1,924	823,200		10,637
June 30, 1915	1,924	837,836		6,013
June 30, 1916	1,924	720,672	4,048,741	7,459
Dec. 31, 1916	1,919	684,986	3,923,310	9,884
Dec. 31, 1917	1,919	514,078	4,192,300	15,420
Dec. 31, 1918	1,918	333,904	3,318,825	16,724
Dec. 31, 1919	1,924	680,212	2,736,041	18,992
Dec. 31, 1920	1,914	614,707	2,644,219	16,012
Dec. 31, 1921	1,914	615,280	1,995,499	9,605
Dec. 31, 1922	1,921	550,645	1,919,669	13,805
Dec. 31, 1923	1,921	311,366	1,689,214	23,680

Substantially the entire cost of the ties represented by the foregoing statements is chargeable to operating expenses, whereas due to the increased weight and difference in quality of rail used in rail replacement a material portion of the cost thereof is chargeable to the investment accounts as additions and betterments. From incomplete information available this increase will approximate from 5 to 25 per cent, depending on the character of the replacement.

APPENDIX B

Statement with respect to depreciation in Texas Midland Railroad, 75 I. C. C. 1, pages 48–52

The carrier insists that this conception of depreciation is wrong, that the inquiry should be whether the property is in 100 per cent efficiency. So long as it is maintained at 100 per cent efficiency, or what comes to the same thing, so long as there is no deferred maintenance, there can be no depreciation.

This is clearly stated in the brief of the carrier, where it is said:

"It is apparent, from the testimony received on the subject of depreciation and from the questions and statements of the Director during the introduction of the same, that the principal difference is one of definition of depreciation. The witnesses called by the carrier—men of candor, ability and experience—while fully recognizing deterioration from age and use and the necessity of repairs and replacements of perishable elements, state that in the absence of deferred maintenance there is no depreciation."

It will be seen, therefore, that the question presented by the record in this case for determination touching depreciation is whether the theory of the bureau or that of the carrier is correct.

When the act was passed the phrases "cost of reproduction new" and "cost of reproduction less depreciation" had come to have a clearly defined and well understood meaning. The conception of depreciation as used in this connection was the equivalent of that put upon it by the bureau. There were differences of opinion as to the part which physical deterioration and functional depreciation should play and all persons were not agreed whether depreciation and life were essentially identical; that is, whether an article might not depreciate more rapidly in the first years of its existence than in the last, or vice versa, but all were agreed upon the fundamental concept that depreciation means decline in value due to loss of capacity for service. An article was assumed to have incorporated in it a certain amount of use when new; a certain part of that use had gone; and so much remained.

Reference might be made to hundreds of instances in which this idea of depreciation when the act was passed had been used in valuation proceedings by individuals, by commissions, and by courts. It is doubtful if any case can be found where it had been deliberately assumed that depreciation and deferred maintenance were synonymous.

Not only have valuators and utility commissions adopted this view of depreciation, but the same definition has been assumed and acted upon by courts, including the Supreme Court of the United States.

This question was first definitely before that court in *Knoxville* v. *Water Co.*, 212 U. S., 1. It was held that in determining the value of a water plant upon the basis of reproduction cost, the depreciation which had already accrued must be taken into account. It is evident from the language of the opinion that the depreciation which the court had in mind was exactly the kind of depreciation which the bureau has applied. The court said, at pages 9 and 10:

"The cost of reproduction is one way of ascertaining the present value of a plant like that of a water company, but that test would lead to obviously incorrect results if the cost of reproduction is not diminished by the depreciation which has come from age and use. * * *

"* * * The items composing the plant depreciate in value from year to year in a varying degree. Some pieces of property, like real estate, for

instance, depreciate not at all, and sometimes, on the other hand, appreciate in value. But the reservoirs, the mains, the service pipes, structures upon real estate, standpipes, pumps, boilers, meters, tools, and appliances of every kind begin to depreciate with more or less rapidity from the moment of their first use. It is not easy to fix at any given time the amount of depreciation of a plant whose component parts are of different ages with different expectations of life. But it is clear that some substantial allowance for depreciation ought to have been made in this case. * * *"

On pages 13 and 14 the following occurs:

"A water plant, with all its additions, begins to depreciate in value from the moment of its use. Before coming to the question of profit at all the company is entitled to earn a sufficient sum annually to provide not only for current repairs but for making good the depreciation and replacing the parts of the property when they come to the end of their life. The company is not bound to see its property gradually waste without making provisions out of earnings for its replacement. It is entitled to see that from earnings the value of the property invested is kept unimpaired, so that at the end of any given term of years the original investment remains as it was at the beginning. It is not only the right of the company to make such a provision, but it is its duty to its bond and stock holders, and, in the case of a public service corporation at least, its plain duty to the public."

This case is full authority for the proposition that depreciation is not deferred maintenance but covers loss of capacity for use due to age, inadequacy, etc.

The Supreme Court approves the same idea of depreciation in *Cedar Rapids Gas Co.* v. *Cedar Rapids*, *supra*. The report of that case does not clearly show the manner in which depreciation was treated, but the record does. The master determined the cost of reproduction and subtracted from that the depreciation estimated according to the rule approved by the court in the *Knoxville Water Case*, *supra*. The gas company did not attack the correctness of this method, but claimed that a sufficient amount was not allowed for depreciation in stating its annual net return. The valuation as fixed by the master and by the court below was approved by the Supreme Court at page 670 in the following language:

"In this case the court fixed a value on the plant that considerably exceeded its cost and estimated that under the ordinance the return would be over 6 per cent. Its attitude was fair and we do not feel called upon to follow the plaintiff into a nice discussion of details. We perhaps should have adopted a rule as to depreciation somewhat more favorable to the plaintiff, or, it may be, might have allowed this or that item that the State court struck out, but there is nothing of which we can take notice in the case that could warrant us in changing the result or in saying that the plaintiff did not get as much as it could expect when leave was reserved for it to try again."

To the same import is *Des Moines Gas Co.* v. *Des Moines*, *supra*. The questions presented to the court in this case were upon going-concern value and the cost of replacing certain pavement, but the method of valuation was approved. The master had determined the value of the property by ascertaining the cost of reproduction new and subtracting therefrom depreciation. That this depreciation which the court approved was not mere deferred maintenance but was estimated upon the theory applied by the bureau clearly appears from the language of the court on pages 161 and 162:

"What is called in this summary 'the present value of physical property,' the report shows was arrived at by the master in the manner following: He first found what he thought was the base value of the property, i. e., 'what it would cost to produce it at the present time new, without adding thereto any overhead charges.' This figure he fixed at $1,975,026. To this he added overhead charges, 15 per cent—$296,254. From this he deducted depreciation, $333,878, leaving as the value of the property thus ascertained, $1,937,402."

The *Minnesota Rate Cases, supra,* are full authority for this same proposition. The question before the court was upon the value of the property of certain carriers. The master in determining this value had ascertained the cost of reproduction new but had declined to make any deduction on account of depreciation, holding that appreciation in its various forms would more than offset depreciation. This method of treatment was disapproved by the Supreme Court, which held that appreciation if it existed should be shown and that depreciation must be subtracted.

What the court meant by depreciation clearly appears from the opinion, where on pages 456 and 457 it said:

"The master allowed the cost of reproduction new without deduction for depreciation. It was not denied that there was depreciation in fact. As the master said, 'everything on and above the roadbed depreciates from wear and weather stress. The life of a tie is from eight to ten years only. Structures become antinquated, inadequate, and more or less dilapidated. Ballast requires renewal, tools and machinery wear out, cars, locomotives, and equipment, as time goes on, are worn out or discarded for newer types.' But it was found that this depreciation was more than offset by appreciation: * * *

We can not approve this disposition of the matter of depreciation. It appears that the master allowed, in the cost of reproduction, the sum of $1,613,612 for adaptation and solidification of roadbed, this being included in the item of grading and being the estimate of the engineer of the state commission of the proper amount to be allowed. It is also to be noted that the depreciation in question is not that which has been overcome by repairs and replacements, but is the actual existing depreciation in the plant as compared with the new one. It would seem to be inevitable that in many parts of the plant there should be such depreciation, as for example in old structures and equipment remaining on hand. And when an estimate of value is made on the basis of reproduction new, the extent of existing depreciation should be shown and deducted. This apparently was done in the statement submitted by this company to the Interstate Commerce Commission in the *Spokane Rate Case* in connection with an estimate of the cost of reproduction of the entire system as of March, 1907. (See 15 I. C. C. Rep. 395, 396.) * * *"

The *Knoxville Water Case* was decided in 1909, the *Minnesota Rate Cases* in 1913. In the interval much had been said upon this subject of depreciation but the above quotation clearly shows that the Supreme Court had in no respect departed from the rule originally laid down.

It may also be noted that the view of our own court of final resort is identical with that adopted in England as appears from *National Telephone Co.* v. *His Majesty's Postmaster General*, 16 A. T. & T. Co., Com. Leaflets, 491, 509. That case grew out of the taking over by the English government of the property of the National Telephone Company and the Court of the Railway & Canal Commission of Great Britain held that depreciation must be deducted from cost of reproduction and that it should be reckoned upon the straight-line method, exactly as has been done in the pending case.

It is clear, therefore, that when the act was passed, the word "depreciation" as used in the phrase "cost of reproduction less depreciation" had acquired a definite meaning. It must be assumed that Congress used the word in that sense. Nor is there to-day any other recognized meaning. We approve and adopt the definition of depreciation which the bureau has applied in this case.

While this disposes of the general contention made by the carrier upon this record and while no general discussion of the evidence presented seems necessary, a word should perhaps be said as to one phase of that testimony.

Many witnesses were produced by the carrier who testified that certain articles, especially rolling stock, could by reapirs and renewals be indefinitely continued in service and that therefore it was impossible to assign to such articles a total life or a remaining life.

This testimony does not tend to support the contention of the carrier that depreciation and deferred maintainance are identical. Even though it may be possible to prolong without limit the life of a car by supplying different parts as they wear out, it would by no means follow that an old car is of the same value, estimated either in dollars or in service units, as a new car; the real point of the testimony is that the method of the bureau can not as a practical matter be applied.

This testimony does not state the exact fact. Cars do go out of service, but it is true that ordinarily a new car of the same type would not be ordered to replace the old car. In other words, cars are ordinarily sent to the scrap heap because they are obsolete or inadequate rather than because they can not be repaired.

That this fact is fully recognized by the bureau in its depreciation methods will be seen by observing the manner in which a car, for example, is depreciated. While the life of the car itself may be indefinitely prolonged, the different parts of that car wear out and must be replaced. The car is therefore divided into three parts, the trucks, the underframe, and the body, and each one of these parts is depreciated by itself. The three are then combined into a weighted average from which the condition per cent of the car is determined. The weighted average may be taken itself as the condition per cent or may be reduced if the type of the car is such that its use will not be continued in the future.

The same rule is applied to locomotives and other rolling stock and also in a degree to certain buildings and structures.

APPENDIX C

Statement showing for each Class I steam railroad, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation to the total investment in road and equipment. (Where no figures are shown no report was submitted or for other reasons the information was not available. An index to the roads follows this statement.)

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
1	7.6	7.8	6.6	6.3	6.7	7.3	7.5	7.7	6.8	5.3
2	6.0	6.7	7.3	7.4	7.9	8.1	8.9	8.6	8.0	8.0
3	0.9	1.0	1.5	1.8	1.8	1.8	2.9	3.3	3.7	4.0
4	0.8	0.9	1.2	1.3	1.6	1.8	2.0	2.2	2.1	2.8
5	3.3	4.0	4.9	5.7	6.3	6.9	7.6	8.6	9.9	10.3
6	1.0	1.1	0.3	0.8	0.7	1.6	2.2	2.9	3.4	3.7
7	20.5	19.4	21.3	21.3	18.8	23.1	24.9	25.9	26.9	26.2
8	2.1	1.9	2.0	2.1	2.0	2.4	2.5	2.7	2.6	2.5
9	5.9	6.3	6.9	7.2	7.7	8.1	8.2	7.9	8.1	7.9
10										
11	3.1	4.1	5.0	5.9	12.6	13.4	13.9	14.5	15.0	15.7
12	4.2	5.1	5.5	6.1	6.9	7.8	8.6	9.6	10.3	10.3
13	0.6	0.9	3.6	3.8	4.1	3.8	4.0	4.5	5.5	4.7
14	0.3	0.3	0	0	0	0	0	0	0	0
15	16.1	14.1	15.4	16.9	16.7	16.7	27.4	27.8	31.0	18.0
16	1.1	2.2	5.5	7.1	10.3	13.7	14.9	18.5	21.0	21.3
17	5.5	6.4	7.4	8.3	8.2	4.0	5.1	5.3	5.7	5.8
18	4.1	4.4	5.5	6.1	6.9	8.2	9.1	10.3	11.5	11.8
19	0.8	2.4	4.7	6.1	6.1	6.1	10.6	12.1	12.7	12.7
20	0.6	0.7	0.9	1.1	1.1	1.0	2.2	2.8	3.5	4.0
21	5.0	5.6	6.2	6.8	6.5	8.0	8.6	9.1	9.3	8.9
22	1.2	1.4	2.1	2.8	2.1	2.7	3.8	5.0	6.1	7.1
23	9.6	11.1	13.2	12.5	11.9	11.2	11.6	12.2	12.7	14.1
24	2.4	2.9	3.4	3.9	4.3	4.7	5.1	5.5	5.4	4.3
25	5.7	6.4	7.5	8.2	8.7	8.7	8.0	6.4	7.0	6.6
26	1.9	2.2	2.6	3.0	3.4	3.8	4.4	4.8	5.4	4.9
27	1.3	1.8	2.7	3.0	2.9	2.8	4.4	4.7	4.8	4.3
28	6.0	6.9	7.9	8.4	8.1	7.8	8.3	11.1	11.5	11.5
29	0	0.8	2.0	2.7	3.3	4.0	4.2	4.9	0.7	1.3
30	0.1	0.1	0.2	0.2	0.2	0.1	0.1	0.1	0.2	0.2
31	0.5	0.6	0.7	0.8	0.8	0.8	1.1	1.2	1.2	1.2
32	1.2	1.5	2.1	2.7	3.2	3.9	4.4	5.0	5.4	5.5
33	1.2	1.4	1.7	2.0	1.8	2.4	2.7	3.1	3.5	3.6
34	1.7	2.2	3.0	3.5	3.4	4.8	6.0	6.5	7.1	7.2
35		0.0	0.4	0.6	0.6	0.6	0.9	1.2	1.4	1.7
36	0.2	0.5	1.0	1.3	1.3	1.3	2.3	2.5	2.8	3.2
37	0.4	1.1	2.0	2.5	2.4	3.7	4.4	5.1	5.8	6.2
38	2.1	2.6	3.2	3.7	3.6	4.8	5.4	6.2	6.7	7.1
39		1.1	0.1	0.4	0.4	0.4	1.4	1.7	1.8	1.9
40	0.6	0.7	0.7	1.0	1.0	1.1	1.1	1.0	1.1	0.5
41	21.9	23.2	21.4	21.8	20.3	19.9	23.8	25.8	23.2	10.9
42	0.9	1.5	2.3	3.1	2.9	2.7	5.3	6.1	5.5	5.6
43	1.5	2.0	3.1	3.5	3.2	3.0	5.6	5.8	6.3	6.7
44	2.9	3.6	4.5	4.9	5.5	6.0	6.5	6.9	7.2	7.3
45	2.5	2.8	3.4	3.8	3.7	3.7	4.9	0.4	4.4	1.4
46	0.2	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0
47	0	0	0	0	0	0	0	0	0	0
48			4.5	4.8	5.6	6.6	6.9	7.7	8.4	9.0
49	14.8	15.0	17.7	19.1	21.5	24.1	23.5	25.7	26.3	23.9
50	1.1	1.4	1.8	2.1	2.0	2.7	3.0	3.2	3.6	3.7
51	0.1	0.2	0.4	0.7	1.3	1.9	2.3	2.6	3.0	3.3
52	0	0.6	0.7	0.7	0.7	0.8	0.7	0.7	0.7	0.7
53	7.5	7.6	8.0	8.5	8.5	9.9	9.8	10.0	10.4	10.5
54	2.5	2.9	3.6	4.0	3.9	3.9	4.7	5.2	6.1	7.7
55	0	0.2	0.4	0.6	0.8	1.1	1.4	1.6	1.9	2.0
56	14.6	16.2	15.0	13.9	13.5	13.4	17.2	18.4	19.5	18.9
57	13.0	13.7	22.6	12.2	11.8	11.7	14.3	15.9	17.2	18.3
58	1.3	1.5	1.8	1.9	1.9	1.9	2.1	2.8	3.1	3.3
59	1.3	1.8	2.3	2.3	3.0	3.4	2.7	3.9	4.2	4.6
60	4.7	5.1	5.1	5.3	5.1	5.1	7.2	7.3	7.9	7.2
61	22.5	26.2	30.9	34.2	29.0	25.9	26.7	31.3	35.9	[1] 40.1
62	2.7	3.3	3.9	4.5	5.2	6.0	6.6	7.2	7.7	6.8
63	1.2	1.3	1.6	1.7	1.9	2.2	2.5	2.9	3.1	3.8
64	2.5	2.7	2.8	3.0	3.2	3.5	3.6	3.9	4.2	0.6
65	3.3	3.8	5.2	6.2	7.1	7.9	8.5	9.4	9.7	10.5
66	0	0.1	0.1	0.3	0.3	0.3	0.5	0.5	0.5	0.5
67	4.2	4.1	4.2	4.3	4.4	4.6	5.0	5.1	5.1	5.1
68	0.6	0.6	0.7	0.8	0.8	0.8	0.9	0.9	1.0	0.9
69	5.7	5.7	5.5	5.8	6.1	6.5	6.8	7.2	6.7	5.9
70	1.2	1.6	2.8	9.6	9.5	10.8	10.3	10.9	11.5	10.3
71	0.2	2.1	2.7	3.0	3.0	3.8	4.1	4.7	5.3	6.0
72	7.0	7.1	7.3	7.4	7.5	7.8	7.6	8.0	8.0	7.4

[1] For equipment only.

Statement showing for each Class I steam railroad, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation to the total investment in road and equipment—Continued

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
73	1.7	1.9	2.3	2.5	2.5	2.4	3.2	3.5	3.7	3.9
74	1.7	1.8	2.2	2.4	2.7	2.8	3.0	4.1	4.2	4.0
75	1.3	1.6	1.9	2.2	2.0	2.5	2.7	2.8	2.3	2.5
76	7.7	8.1	8.6	9.8	9.7	9.5	10.7	11.9	16.2	15.2
77	2.4	2.8	3.5	5.3	5.7	6.4	6.8	7.5	8.2	7.5
78	3.4	3.1	2.8	3.0	3.2	3.3	3.4	3.5	3.5	3.1
79	3.2	2.9	2.8	2.9	2.9	3.0	3.0	3.3	3.4	3.5
80	5.3	5.8	7.4	8.5	9.4	11.4	12.8	13.5	14.1	13.4
81	0.6	0.9	1.7	2.2	2.1	3.2	3.6	4.0	11.6	8.5
82	1.1	1.3	1.4	1.5	1.5	1.6	1.6	1.6	1.7	1.7
83	2.2	2.6	4.1	4.5	3.8	3.6	6.3	7.3	7.2	6.6
84	0	0	0.3	0.6	0.5	0.5	1.2	1.2	1.2	1.0
85			0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2
86	0	0	0.1	0.3	0.3	0.6	0.9	1.1	1.3	1.5
87	1.9	2.2	2.6	2.3	2.3	2.3	0.4	0.4	0.4	0.6
88	0.3	0.5	0.9	1.1	1.1	1.0	2.2	2.6	3.0	
89	10.5	14.1	17.5	20.3	20.8	21.1	26.8	30.5	33.9	35.4
90	6.1	7.1	8.8	9.9	10.8	12.0	13.2	14.0	15.0	15.9
91	4.1	4.8	6.1	7.0	7.9	8.9	9.8	10.8	11.6	12.1
92	9.1	10.5	11.8	12.8	14.1	16.4	18.0	19.3	21.1	19.2
93	1.7	2.1	2.9	3.7	4.6	5.4	6.0	6.6	7.1	7.1
94	6.8	6.6	7.7	8.4	3.7	3.7	3.9	5.0	5.3	5.4
95	1.3	1.5	1.8	2.0	2.2	2.4	2.6	2.7	2.9	3.1
96	1.6	1.9	2.2	2.3	2.2	2.2	3.3	3.6	3.8	4.0
97	8.5	8.2	8.4	9.2	9.7	10.1	10.4	10.7	10.8	10.7
98	2.0	2.5	3.0	3.4	3.3	4.3	4.7	5.3	5.4	5.2
99	11.4	12.0	11.8	12.3	13.2	13.8	14.2	13.7	13.9	12.9
100	10.9	11.0	11.1	11.4	11.6	12.1	12.3	12.7	10.9	11.1
101	1.6	2.1	2.7	16.1	17.4	18.5	19.6	20.6	21.7	22.2
102	4.7	6.1	6.0	6.4	5.6	5.0	9.0	10.2	10.5	10.2
103	4.0	4.0	8.5	5.0	4.8	4.7	5.1	5.0	4.1	3.9
104	0.9	1.0	1.3	1.6	2.1	2.6	3.1	3.5	4.1	4.4
105	2.0	2.5	3.2	3.6	3.6	3.5	3.8	4.0	5.2	5.6
106	2.9	3.2	3.7	4.0	3.9	3.9	4.9	4.9	4.5	4.7
107	0.5	0.7	1.1	1.5	1.5	1.5	3.1	3.6	4.0	0.5
108			0.2	0.4	0.4	0.4	1.0	1.3	1.4	0.2
109	1.5	1.9	2.1	2.2	2.2	2.2	2.3	2.4	0.1	0.7
110	0	0.4	0.7	0.2	0.2	0.2	1.1	1.4	1.6	1.8
111	6.9	7.2	7.5	8.0	8.6	8.5	9.6	9.9	8.7	6.5
112	0.8	1.1	0.7	0.8	0.8	1.5	1.7	2.3	2.2	2.4
113	5.7	7.1	8.6	9.9	12.6	12.8	14.1	15.0	17.8	15.9
114	6.1	6.0	5.4	5.7	5.9	6.1	6.2	6.3	6.3	6.1
115	8.5	9.3	10.0	10.7	11.3	12.5	12.9	13.8	13.9	12.8
116	0.5	0.5	0.6	0.6	0.7	0.8	0.8	0.8	0.6	0.6
117	18.5	22.0	24.1	24.9	26.8	29.2	26.7	29.0	30.4	33.1
118	3.5	3.9	3.7	5.0	4.9	4.9	6.5	6.8	5.9	6.3
119	4.0	4.4	4.8	6.0	6.3	6.2	7.4	7.9	6.5	5.8
120	1.8	2.2	0.6	1.4	1.4	1.4	1.7	2.7	3.5	4.5
121	1.8	2.9	4.2	4.8	4.5	4.4	7.2	7.8	8.6	7.8
122	0.6	1.0	1.4	1.8	2.4	3.0	3.7	4.6	5.3	4.2
123					0	0	0	0	0	0
124	1.1	1.9	3.6	4.5	3.9	3.5	6.7	10.0	11.3	11.7
125	1.8	2.0	2.4	2.6	2.5	2.5	2.6	3.5	3.8	3.9
126	12.0	13.2	14.8	15.5	14.8	16.1	16.8	17.8	18.6	19.0
127	0.5	0.7	1.0	1.1	1.3	1.5	1.7	1.9	2.1	2.2
128	0.8	1.0	1.4	1.6	1.8	2.1	2.4	2.7	2.9	3.2
129	3.7	4.5	5.8	6.7	6.4	6.1	9.3	10.2	10.3	9.9
130	0.8	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.2	0.2
131	2.8	2.9	3.1	3.3	3.9	6.6	6.8	7.4	7.0	6.6
132	0.8	0.9	1.1	1.2	1.4	1.6	1.7	1.8	1.9	2.0
133	0.8	1.1	1.6	2.0	3.3	6.0	8.3	10.6	13.2	15.4
134	3.5	3.6	4.3	4.7	4.6	4.5	6.4	7.0	7.4	7.8
135	2.3	2.4	2.8	3.0	3.0	3.0	3.9	4.1	4.2	4.4
136	0	0	0	0	0	0	0	0	0	0
137	3.6	3.8	4.6	11.1	11.6	12.5	13.2	14.9	15.8	14.5
138	2.3	3.0	3.9	0.3	0.3	0.3	1.0	3.1	4.1	4.6
139	0	0	0	0	0	0	0	0	0	0
140	0	0	0	0	0	0	0	0	0	0.5
141	1.8	2.4	3.5	9.2	9.0	9.5	9.4	10.1	10.6	10.3
142	1.7	2.9	8.0	9.0	8.7	8.1	11.6	12.2	12.4	12.0
143			1.0	1.4	1.8	1.8	2.1	2.5	3.7	4.4
144	0.7	1.0	1.3	1.6	1.8	2.0	2.3	2.3	2.1	2.3
145	0.2	0.3	0.4	0.1	0.3	0.5	0.7	0.9	1.1	1.5
146	0	0	0	0	0	0	0	0	0	0
147	3.9	4.3	3.9	3.8	3.7	3.6	3.4	3.3	3.3	3.1
148	5.1	5.7	6.7	8.3	7.7	8.1	6.4	6.6	6.9	7.2
149	1.5	3.5	3.8	4.1	3.8	3.7	4.9	5.2	5.6	5.7
150	0.2	0.4	0.7	0.8	0.8	0.8	1.3	1.5	1.7	1.9

***Statement showing for each Class I steam railroad, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation to the total investment in road and equipment*—Continued**

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
151	0.9	0.9	1.8	2.1	2.1	2.1	2.2	3.0	3.4	3.8
152	0.3	0.3	0.2	4.4	4.3	5.7	7.3	7.7	7.7	7.3
153	0	0	0	0	0	0	0	0	0	0
154	2.3	2.7	3.2	3.1	2.9	3.7	4.0	4.4	4.6	4.5
155	4.1	4.6	5.2	4.9	4.6	5.8	6.2	6.5	6.9	6.5
156	1.9	2.3	2.9	3.3	3.2	3.2	3.4	4.6	4.9	5.0
157	0.1	0.1	0.2	0.3	0.3	0.3	0.4	0.7	0.8	0.9
158	1.3	1.5	1.7	1.9	2.2	2.5	2.7	3.0	2.7	2.3
159	4.0	4.0	4.0	4.2	4.5	5.0	5.3	5.9	5.9	5.4
160	10.6	13.3	9.8	9.8	10.5	11.8	12.3	12.0	13.9	13.7
161	1.1	1.3	1.0	1.9	2.1	2.3	2.4	2.6	2.8	2.9
162	0.7	0.9	1.1	1.3	1.2	1.5	1.7	1.9	2.2	2.3
163	1.7	2.0	2.3	2.2	2.0	2.2	2.4	2.5	2.6	2.7
164	0.3	0.4	0.6	0.7	0.6	0.9	1.0	1.1	0.8	1.4
165			0	0	0	0.1	0.1	0.1	0.2	0.2
166	6.0	5.7	5.6	5.9	6.2	6.4	6.3	6.3	6.3	5.6
167	1.9	2.2	2.3	2.2	2.4	2.7	3.0	4.1	4.5	4.4
168	3.1	3.5	6.0	6.1	5.1	4.8	8.1	9.3	9.2	9.0
169	2.7	8.3	5.2	5.5	5.4	5.2	5.5	5.7	7.2	7.2
170	0.6	0.6	0.9	1.3	1.3	2.0	2.4	2.6	2.9	
171	0	0.1	0.6	1.0	1.2	1.1	1.4	2.4	2.7	2.8
172	4.0	4.6	5.5	6.1	6.1	6.1	6.6	8.7	9.3	9.6
173	3.6	3.8	3.9	4.0	3.7	3.6	5.0	5.4	5.9	6.4
174		0.7	2.2	1.0	1.9	2.8	4.2	5.7	6.9	8.3
175	3.9	4.1	4.3	4.5	4.8	4.5	4.9	5.0	4.7	4.9
176	0.7	0.9	1.2	1.4	1.7	2.1	2.2	2.9	3.5	3.8
177	2.2	2.5	0.2	0.4	0.5	0.7	1.2	1.6	1.9	2.2
178	13.7	15.1	18.2	19.9	18.9	23.1	24.4	25.5	25.9	25.6
179	1.0	1.1	1.4	0.3	0.6	0.9	1.2	1.5	1.9	2.1
180	0.1	0.2	0.4	0.5	0.5	0.5	1.3	1.4	1.6	1.9
181	2.3	2.5	5.5	8.6	9.3	10.3	11.3	12.2	13.2	14.2
182	1.2	1.4	1.4	0.2	0.2	0.8	1.2	1.6	2.0	2.6
183			0.6	0.8	0.8	0.8	1.6	1.8	2.1	
184							0	0.2	0.3	0.4
185	0.5	0.4	0.4	0.4	0.4	0.4	0.2	0.1	0.1	0.1
186	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.8	1.8

Index to Class I steam railroads

Explanation of reference marks:
* Accounts for depreciation of equipment only.
† Accounts for depreciation of practically all classes of fixed property.
†† Accounts for depreciation of certain units of fixed property.
§ Does not account for depreciation of any property.

The classification as above is based on information shown in Exhibits 1 to 9 and individual answers of carriers to questionnaire sent out by the depreciation section, all of which are part of the record in No. 15100.

*1. Alabama & Great Southern R. R. Co.
*2. Alabama & Vicksburg Ry. Co.
*3. Ann Arbor R. R. Co.
*4. Arizona & Eastern R. R. Co.
*5. Atchison, Topeka & Santa Fe Ry. Co. (Answer to questionnaire does not show depreciation on fixed property, but annual reports show balance in reserve for 1922 and 1923 covering ice plant.)
†6. Atlanta, Birmingham & Atlantic R. R. Co.
†7. Atlanta & West Point R. R. Co.
*8. Atlantic City R. R. Co.
*9. Atlantic Coast Lines R. R. Co.
§10. Atlantic & St. Lawrence R. R. Co.
*11. Baltimore, Chesapeake & Atlantic Ry. Co.
*12. Baltimore & Ohio R. R. Co.
*13. Bangor & Aroostook R. R. Co.
*14. Beaumont, Sour Lake & Western Ry. Co.
*15. Bessemer & Lake Erie R. R. Co.
†16. Bingham & Garfield Ry. Co.
*17. Boston & Maine R. R.
††18. Buffalo, Rochester & Pittsburgh Ry. Co.
*19. Buffalo & Susquehanna R. R. Corp'n.
*20. Carolina, Clinchfield & Ohio Ry.
*21. Central of Georgia Ry. Co.
††22. Central New England Ry. Co.
*23. Central Railway Company of New Jersey.

†24. Central Vermont Ry. Co.
•25. Charleston & Western Carolina Ry. Co.
•26. Chesapeake & Ohio Ry. Co. (Answer to questionnaire does not show depreciation on fixed property, but annual reports for 1921, 1922, 1923 show small balance in reserve.)
•27. Chicago & Alton R. R. Co.
•28. Chicago, Burlington & Quincy R. R. Co.
•29. Chicago & Eastern Illinois R. R. Co.
•30. Chicago & Erie R. R. Co.
•31. Chicago & Great Western R. R. Co.
•32. Chicago, Indianapolis & Louisville Ry. Co.
•33. Chicago, Milwaukee & St. Paul Ry. Co.
•34. Chicago & North Western Ry. Co
•35. Chicago, Peoria & St. Louis R. R. Co.
•36. Chicago, Rock Island & Gulf Ry. Co.
•37. Chicago, Rock Island & Pacific Ry. Co.
•38. Chicago, St. Paul, Minneapolis & Omaha Ry. Co.
•39. Cincinnati, Indianapolis & Western R. R. Co.
•40. Cincinnati, Lebanon & Northern Ry. Co.
•41. Cincinnati, New Orleans & Texas Pacific Ry. Co.
•42. Cincinnati Northern R. R. Co.
•43. Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.
•44. Colorado & Southern Ry. Co.
•45. Columbus & Greenville R. R. Co.
•46. Cooper River & Northwestern Ry. Co.
§§47. Cumberland Valley & Martinsburg R. R. Co.
•48. Delaware & Hudson Co.
•49. Delaware, Lackawanna & Western R. R. Co.
•50. Denver & Rio Grande R. R. Co.
•51. Denver & Salt Lake R. R. Co.
•52. Detroit, Grand Haven & Milwaukee Ry. Co.
††53. Detroit & Mackinac Ry. Co.
•54. Detroit & Toledo Shore Line R. R. Co.
•55. Detroit, Toledo & Ironton R. C. Co.
††56. Duluth & Iron Range R. R. Co.
††57. Duluth, Missabe & Northern Ry. Co.
††58. Duluth, South Shore & Atlantic Ry. Co.
•59. Duluth, Winnepeg & Pacific Ry. Co.
•60. Elgin, Joliet & Eastern Ry. Co.
•61. El Paso & Southwestern Co. (Shows no investment in fixed property.)
•62. Erie R. R. Co.
•63. Florida & East Coast Ry. Co. (Answer to questionnaire does not show depreciation on fixed property, but annual report for 1923 shows small balance in reserve.)
•64. Ft. Smith & Western R. R. Co.
•65. Ft. Worth & Denver City Ry. Co.
•66. Ft. Worth & Rio Grande Ry. Co.
•67. Galveston, Harrisburg & San Antonio Ry. Co.
•68. Georgia & Florida Ry.
•69. Georgia Southern & Florida Ry. Co.
•70. Grand Rapids & Indiana Ry. Co.
•71. Grand Trunk Western Ry. Co.
††72. Great Northern Ry. Co.
•73. Green Bay & Western R. R. Co.
•74. Gulf, Colorado & Santa Fe Ry. Co.
††75. Gulf, Mobile & Northern R. R. Co.
†76. Gulf & Ship Island R. R. Co.
•77. Hocking Valley R. R. Co.
•78. Houston East & West Texas Ry.
•79. Houston & Texas Central R. R. Co.
•80. Illinois Central R. R. Co.
•81. International-Great Northern Ry. Co.
•82. International Ry. Co. of Maine
•83. Kanawha & Michigan Ry. Co.
•84. Kansas City, Mexico & Orient Ry. Co.
•85. Kansas City, Mexico & Orient Ry. Co. of Texas
•86. Kansas City Southern Ry. Co.
•87. Kansas, Oklahoma & Gulf Ry. Co.
•88. Lake Erie & Western R. R. Co.
†89. Lake Superior & Ishpeming Ry.
•90. Lehigh & Hudson River Ry. Co.
•91. Lehigh & New England R. R. Co.
•92. Lehigh Valley R. R. Co.
††93. Long Island R. R. Co.
††94. Louisiana & Arkansas Ry. Co.
•95. Louisiana Railway & Navigation Co.
††96. Los Angeles & Salt Lake R. R. Co.
•97. Louisiana Western R. R. Co.
•98. Louisville, Henderson & St. Louis Ry. Co.
††99. Louisville & Nashville R. R. Co.
•100. Maine Central R. R. Co.
•101. Maryland, Delaware & Virginia Ry. Co.
•102. Michigan Central R. R. Co.
•103. Midland Valley R. R. Co.
•104. Minneapolis & St. Louis R. R. Co.
•105. Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.
•106. Mississippi Central R. R. Co.
•107. Missouri, Kansas & Texas Lines.
•108. Missouri, Kansas & Texas Ry Co. of Texas.
•109. Missouri & North Arkansas R. R. Co.
•110. Missouri Pacific Ry. Co.
•111. Mobile & Ohio R. R. Co.
•112. Monongahela R. R. Co.
†113. Montour R. R. Co.
•114. Morgan's Louisiana & Texas R. R. & S. S. Co.
•115. Nashville, Chattanooga & St. Louis Ry.
•116. New Jersey & New York R. R. Co.
†117. Nevada Northern Ry. Co.
†118. New Orleans Great Northern R. R. Co.

*119. New Orleans & Northeastern R. R. Co.
*120. New Orleans, Texas & Mexico Ry. Co.
††121. New York Central R. R. Co. (Answer to questionnaire does not show depreciation on fixed property, but annual report does.)
*122. New York, Chicago & St. Louis R. R. Co.
§123. New York Connecting R. R. Co.
††124. New York, New Haven & Hartford R. R. Co.
*125. New York, Ontario & Western Ry. Co.
*126. New York, Philadelphia & Norfolk R. R. Co.
*127. New York, Susquehanna & Western R. R. Co.
††128. Norfolk Southern R. R. Co.
†129. Norfolk & Western Ry. Co.
*130. Northern Alabama Ry. Co.
*131. Northern Pacific Ry. Co.
*132. Northwestern Pacific R. R. Co.
††133. Oahu Railway & Land Co.
††134. Oregon Short Line R. R. Co.
††135. Oregon-Washington R. R. & Navigation Co.
§§136. Panhandle & Santa Fe Ry. Co.
137. Pennsylvania R. R. Co.
††Steam R. R.
†Water and elec.
*138. Pere Marquette R. R. Co.
*139. Perkiomen R. R. Co.
§§140. Philadelphia & Reading Ry. Co. (Annual report for 1923 shows small balance in reserve for depreciation of fixed property.)
*141. Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co.
*142. Pittsburgh & Lake Erie R. R. Co.
*143. Pittsburg, & Shawmut R. R. Co.
*144. Pittsburg, Shawmut & Northern R. R. Co.
*145. Pittsburgh & West Virginia Ry. Co.
§§146. Port Reading R. R. Co.
*147. Quincy, Omaha & Kansas City R. R. Co.
*148. Richmond, Fredericksburg & Potomac R. R. Co. (Answer to questionnaire shows no depreciation on fixed property but annual report shows small balance in reserve.)
*149. Rutland R. R. Co.
*150. St. Joseph & Grand Island Ry. Co.
*151. St. Louis, Brownsville & Mexico Ry. Co.
*152. St. Louis-San Francisco Ry. Co. (Answer to questionnaire shows depreciation on one bridge but annual report does not show reserve for fixed property.)
§§153. St. Louis, San Francisco & Texas Ry. Co.
*154. St. Louis South Western Ry. Co.
*155. St. Louis Southwestern Ry. Co. of Texas.
*156. San Antonio & Aransas Pass Ry. Co.
*157. San Antonio, Uvalde & Gulf R. R. Co.
*158. Seaboard Air Line Ry. Co.
*159. Southern Ry. Co.
††160. Southern Pacific Co.
*161. Spokane International Ry. Co.
*162. Spokane, Portland & Seattle Ry. Co.
*163. Staten Island Rapid Transit Ry. Co.
*164. Tennessee Central R. R. Co.
*165. Texarkana & Ft. Smith Ry. Co.
*166. Texas & New Orleans R. R. Co. (Annual reports show small balance in reserve for depreciation of fixed property.)
*167. Texas & Pacific Ry. Co.
*168. Toledo & Ohio Central Ry. Co. (Answer to questionnaire does not show depreciation on fixed property but annual report shows a small balance in the reserve.)
*169. Toledo, Peoria & Western Ry. Co.
*170. Toledo, St. Louis & Western R. R. Co.
*171. Trinity & Brazos Valley Ry. Co.
*172. Ulster & Delaware R. R. Co.
††173. Union Pacific R. R. Co.
†174. Utah Ry. Co.
*175. Vicksburg, Shreveport & Pacific Ry. Co.
††176. Virginian Ry. Co. (Answer to questionnaire shows no depreciation of fixed property up to 1920, incl., but annual report indicates that subsequent thereto depreciation was accounted for on certain classes of fixed property.)
*177. Wabash Ry. Co.
†178. Western Railway of Alabama.
*179. Western Maryland Ry. Co.
*180. Western Pacific R. R. Co.
†181. West Jersey & Seashore R. R. Co. (Accrues depreciation on all classes of property on its electrified line.)
*182. Wheeling & Lake Erie Ry. Co.
*183. Wichita Falls & Northwestern Ry. Co.
*184. Wichita Falls, Ranger & Ft. Worth R. R. Co.
*185. Wichita Valley Ry. Co.
*186. Yazoo & Mississippi Valley R. R. Co.

APPENDIX D

Statement showing for each Class I steam railroad, reporting a separation between investment in road and investment in equipment, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation of equipment to the total investment in equipment. (Where no figures are shown no report was submitted or for other reasons the information was not available.) For index see Appendix C

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
1	24.9	26.8	22.7	22.1	24.4	27.0	27.4	28.0	25.3	15.3
2	25.2	27.9	31.3	30.8	34.1	31.6	35.5	29.8	25.4	26.3
3	4.6	5.6	7.8	9.5	9.4	9.4	12.9	14.4	15.8	15.7
4	16.0	18.4	23.2	18.8	22.0	25.5	29.1	32.3	34.6	38.6
5										34.5
6			4.5	8.9	8.1	18.4	19.4	24.0	27.9	27.8
8	25.3	26.9	32.2	36.2	36.2	43.3	46.1	49.8	53.6	57.3
9	24.4	26.3	27.8	27.3	28.2	27.9	30.5	29.0	29.8	26.2
11	9.1	12.0	16.7	19.6	43.5	50.5	48.9	51.6	51.8	54.2
12	13.9	14.7	16.0	17.4	19.7	21.1	22.7	24.7	25.9	24.0
13	2.6	4.2	15.4	16.5	18.1	19.8	20.9	22.0	22.9	21.3
14	43.6	44.5								
15	17.1	14.7	16.0	17.6	17.5	17.5	28.7	29.1	32.4	35.3
16	6.9	11.7	15.6	15.2	19.1	24.1	33.4	38.4	42.0	45.7
17	16.2	18.9	19.6	24.5	24.0	20.8	24.1	23.7	24.5	23.2
18	10.3	11.0	13.6	15.1	16.2	19.8	21.3	24.5	27.7	28.0
19	2.9	8.6	16.9	22.4	22.4	22.4	39.2	44.8	48.5	43.8
20	4.8	5.6	7.0	7.3	7.3	6.5	9.2	11.8	14.5	16.5
21	27.3	30.4	32.5	35.	32.9	38.4	42.0	42.7	42.6	35.9
22	10.4	12.7	16.3	19.2	19.2	24.9	28.4	32.2	28.9	30.9
23	21.8	25.7	28.4	30.3	29.5	26.5	27.0	28.1	28.8	33.0
26	8.8	9.8	10.8	10.9	12.6	12.8	15.2	15.8	17.7	15.4
27			20.2	21.9	21.2	20.9	30.3	28.5	29.0	24.9
28	33.9	39.3	45.3	44.5	42.5	41.2	42.1	56.6	54.6	54.0
29	1.8	2.3	5.1	7.0	8.8	10.7	11.5	13.3	2.1	3.7
30	3.7	4.3	5.4	6.6	7.5	4.8	5.3	12.0	13.0	14.6
31	5.0	5.9	7.4	8.5	8.4	8.2	11.2	11.3	11.2	9.2
32	5.3	6.5	9.8	12.7	15.2	18.5	19.3	21.9	22.8	21.6
33	6.5	7.7	9.7	10.9	10.1	13.6	13.7	15.3	16.1	15.6
35			2.4	4.2	4.2	4.1	5.7	7.5	9.4	11.2
37	1.7	4.8	8.9	11.3	10.7	16.2	17.8	20.3	23.1	23.8
39			1.0	2.6	2.5	2.5	7.8	9.6	9.3	9.3
40										29.8
41	23.5	25.2	23.1	23.5	21.9	21.6	25.7	27.9	25.1	19.8
42										26.0
43										27.7
44	21.4	27.1	34.9	39.3	43.8	42.9	47.1	51.3	46.3	47.3
45								15.4	19.1	1.7
46	9.1	12.1	12.5	13.3	14.7	17.7	20.3	23.1	26.0	28.8
48										24.7
49	39.0	39.1	45.7	46.2	51.0	57.4	52.5	57.3	54.3	56.7
50	10.0	12.6	15.3	16.5	16.4	21.8	24.3	25.9	29.5	25.4
51	1.1	2.0	4.0	6.0	6.9	9.9	11.9	13.9	15.9	17.7
53	29.0	31.8	36.6	41.7	40.8	50.7	53.2	55.5	57.7	57.6
55		2.1	6.3	6.4	9.4	12.1	10.1	12.5	14.3	13.4
56	30.3	33.3	33.3	29.4	28.0	27.8	36.5	39.3	42.3	44.0
57	28.3	28.6	27.0	25.5	25.3	25.2	32.6	35.8	38.7	40.8
58	12.9	15.2	18.6	18.5	18.4	18.2	20.2	28.2	30.7	53.1
60	33.3	35.6	35.9	34.5	31.7	31.4	45.7	32.9	36.1	24.2
61	22.5	26.2	30.9	34.2	29.0	25.9	26.7	31.3	35.9	40.1
63	11.1	10.6	14.1	15.2	15.2	17.9	18.9	20.2	21.1	21.6
64	22.7	25.1	24.1	24.4	26.3	28.5	28.5	30.6	33.3	3.8
65	20.5	18.5	25.6	30.4	35.5	38.1	39.1	43.8	37.9	41.9
67	1.5	1.7	4.6	13.7	13.7	13.7	22.1	21.3	18.3	19.6
68	10.5	12.2	14.4	14.9	16.0	15.9	18.2	19.2	20.5	19.2
69	25.2	26.5	23.7	24.6	26.4	28.7	30.8	32.6	32.3	31.0
70	6.7	9.2	13.5	38.9	39.0	44.5	35.5	38.1	40.7	39.2
72	35.7	36.2	36.0	37.3	38.6	40.5	36.1	37.4	35.6	30.5
73	23.4	25.3	26.5	29.5	26.8	26.0	34.6	35.1	37.3	38.1
74	24.0	27.3	32.9	37.8	42.2	46.4	50.5	60.4	64.4	66.1
75	13.5	16.7	20.3	22.2	21.5	27.5	27.4	27.1	19.7	19.2
76	40.7	44.2	48.9	50.4	49.4	47.0	50.0	51.8	59.6	58.2
77	7.5	8.5	10.5	15.4	17.2	19.7	18.4	20.7	22.8	20.3
81	4.7	7.2	11.7	14.8	14.6	21.5	24.9	26.3	44.8	38.6
82	16.2	18.6	20.2	21.5	22.8	23.6	24.9	24.8	26.2	26.7
83	7.9	7.5	12.0	13.5	10.1	9.8	17.1	20.3	20.1	19.9
84			4.3	7.1	7.0	7.0	15.3	15.7	16.2	12.7
85			9.0	15.0	20.8	26.7	33.0	35.1	33.1	35.0
86			1.2	3.1	2.8	6.2	8.6	10.8	12.9	11.9
87	13.2	15.5	17.9	17.7	18.1	18.2	2.5	4.7	7.0	8.6
88	4.1	7.2	11.3	9.7	8.2	7.8	16.6	19.6	23.9	

Statement showing for each Class I steam railroad, reporting a separation between investment in road and investment in equipment, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation of equipment to the total investment in equipment—Continued

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
89	32.1	37.3	33.3	36.4	40.2	40.0	47.2	51.7	55.3	57.8
90	25.5	29.7	34.3	39.6	39.8	44.8	49.8	54.1	58.8	63.6
91	13.7	18.7	21.0	25.0	29.0	32.6	36.4	40.3	42.7	43.5
92	13.1	15.0	16.9	18.0	20.2	23.2	25.8	28.5	31.5	29.4
93	6.6	7.7	11.1	12.7	14.8	17.5	16.9	18.0	20.1	20.9
94	33.6	37.4	42.6	45.9	27.7	27.6	24.6	30.0	32.3	32.2
95	16.9	19.5	22.9	24.9	27.8	29.4	32.3	32.2	33.1	35.2
96	17.2	20.0	23.8	20.1	17.9	17.5	25.5	25.9	28.5	31.4
98	15.5	19.4	24.7	25.6	25.1	33.0	37.1	42.3	45.2	30.9
99	33.3	34.3	37.8	36.0	38.6	42.8	39.6	35.9	35.9	30.0
100	31.1	31.4	32.6	33.8	32.9	34.2	33.0	34.0	29.0	28.0
101	4.7	6.0	7.9	38.9	42.1	44.5	47.2	50.0	51.8	53.0
102	9.5	12.9	15.8	15.3	12.1	10.7	18.9	20.4	21.1	19.4
103	11.7	12.0	46.5	38.8	37.7	37.1	37.7	37.8	34.7	30.9
104	9.0	9.7	11.3	10.3	13.6	17.2	18.2	20.6	24.0	27.2
105	10.9	13.7	17.7	19.1	19.0	18.9	19.1	18.5	24.1	24.9
106	21.5	24.2	28.6	30.6	30.5	30.5	40.1	35.5	31.0	29.9
107			6.1	8.4	8.1	7.9	15.3	17.8	20.5	2.2
108			3.1	5.7	5.6	5.4	12.4	16.0	18.9	2.1
109										2.6
110	1.4	15.5	32.8		1.2	1.1	6.7	8.1	9.4	9.6
111	24.0	24.2	24.7	26.5	28.8	28.6	32.1	33.6	32.4	22.9
112	9.0	11.3	11.2	13.5	10.3	19.0	16.1	21.2	22.5	23.4
113	8.6	13.3	15.7	19.2	24.4	25.0	26.0	26.9	33.6	22.3
115	26.3	28.8	29.9	32.8	35.3	39.3	37.7	40.6	41.2	37.3
116	6.5	7.5	8.9	9.2	10.0	10.9	11.8	12.6	11.1	12.0
117	41.4	48.0	44.8	43.9	47.4	50.8	44.3	46.8	43.6	44.4
118	24.5	26.8	25.4	33.4	33.9	32.8	39.3	34.6	21.1	19.7
119	30.2	28.5	31.8	27.3	26.3	26.0	31.6	33.9	33.0	31.6
120			3.4	6.1	6.1	6.0	6.5	7.6	9.7	12.1
121		9.3	12.7	14.2	12.7	12.2	20.0	21.0	22.8	22.9
122	3.5	5.8	8.2	8.6	10.4	13.5	15.4	18.8	20.0	19.1
124	3.5	6.1	10.2	12.9	10.5	10.3	18.9	27.8	31.0	33.4
125	15.6	18.0	19.9	21.9	21.4	21.1	22.8	30.1	30.4	29.6
126	32.3	36.6	41.6	45.1	36.6	39.9	40.3	43.0	45.5	47.4
128	5.5	7.7	10.3	12.5	11.0	12.8	14.0	15.7	17.5	16.9
129	16.3	18.6	21.5	23.6	20.9	19.9	26.5	28.5	27.1	23.4
130	36.2	39.6	43.2	44.3	44.4	49.0	51.4	51.6	56.6	59.5
131	22.3	22.8	24.2	25.3	27.2	39.9	40.7	44.1	41.3	34.8
132	11.2	12.0	14.8	16.3	18.4	20.7	21.8	23.2	22.6	24.4
133	4.8	6.6	8.5	10.4	13.5	17.3	18.7	21.3	24.8	28.0
134	27.4	18.7	22.7	24.9	24.2	23.6	32.3	35.6	38.7	40.9
135										44.3
137			11.9	27.6	28.8	30.9	31.1	33.2	35.5	31.9
138				2.0	1.6	1.5	4.0	11.4	14.1	14.5
139	42.0	48.0	57.0	63.0	63.0	75.0	81.0	85.5	87.7	[1]87.7
141	7.3	10.1	14.5	33.7	33.3	36.4	34.2	35.9	38.5	37.4
142	3.6	6.3	17.3	20.0	19.8	18.7	26.8	27.2	26.8	25.0
143			6.1	8.8	9.5	9.3	11.2	13.2	19.8	23.8
144	8.7	12.5	17.1	20.0	23.5	26.6	30.0	35.2	44.8	48.9
145				7.5	5.4	9.6	12.0	14.0	17.6	12.5
148	20.0	23.4	22.9	26.0	19.3	18.8	21.6	23.5	25.5	26.9
149	10.8	23.8	26.7	29.0	25.3	24.6	33.5	37.0	40.4	42.2
151	9.4	6.4	12.7	14.6	14.5	14.5	16.0	22.2	25.1	28.4
152			.5	30.7	29.6	32.9	33.3	34.4	34.0	29.4
153										3.1
156	20.3	26.0	34.2	38.2	38.0	38.0	40.9	55.9	55.3	55.5
157	1.2	1.9	5.4	5.6	5.0	4.9	6.8	13.3	13.2	12.8
158			12.2	13.6	14.9	17.1	18.7	20.7	17.0	12.4
159	22.6	22.4	23.5	23.0	24.3	26.8	25.7	27.9	27.2	23.3
162	16.9	19.1	24.2	27.2	27.0	33.6	29.2	32.7	36.1	39.4
163	21.3	24.7	30.5	31.8	35.2	38.6	42.1	43.5	44.6	43.5
164	5.4	7.5	10.7	12.9	12.5	18.1	20.1	22.8	2.2	3.8
165			1.2	3.2	3.1	7.0	7.6	9.9	9.8	10.3
168	9.8	9.4	16.1	15.1	11.8	10.8	18.5	21.7	21.5	21.3
170	5.5	6.2	9.7	13.1	12.9	20.7	20.2	20.7	22.0	
171		.3	2.8	4.8	5.7	5.7	7.3	12.2	14.2	16.0
172	27.5	31.9	38.2	42.8	41.3	41.4	45.1	59.0	62.6	66.2
173		33.1	35.7	32.3	32.0	23.7	29.6	29.3	31.0	28.9
174		2.6	7.4	4.1	6.6	9.3	12.5	16.6	20.6	24.0
176										
177			2.2	3.6	5.3	7.3	8.2	10.5	12.9	12.8
179				1.8	3.9	6.1	8.0	8.7	10.8	11.7
180	4.8	6.2	6.9	7.0	4.2	4.2	11.4	10.2	12.3	10.4

[1] Investment, in equipment only, $510.

Statement showing for each Class I steam railroad, reporting a separation between investment in road and investment in equipment, for the years 1914 to 1923, inclusive, the ratio of the reserve for accrued depreciation of equipment to the total investment in equipment—Continued

Carrier	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
181	4.2	1.5	18.7	31.4	32.5	36.9	41.2	45.0	48.6	48.8
182	7.1	8.4	8.8	1.1	1.1	5.7	6.1	8.3	10.8	13.7
183			6.1	8.9	8.9	8.9	17.5	20.5	23.4	
184								3.9	10.6	9.7
185	23.7	33.0	35.1	42.9	42.9	42.9	72.1	69.0	50.9	54.7
186	26.4	28.1	37.0	42.3	47.1	51.7	58.0	63.7	65.1	70.3

APPENDIX E

Statement showing for each class A telephone company for the years 1913 to 1923, inclusive, the ratio of the reserve for accrued depreciation to the total investment in plant and equipment. (Where no figures are shown no report was submitted or for other reasons the information was not available. An index to the companies follows this statement.)

Company	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
1	10.2	11.3	12.4	13.6	14.9	15.1	17.1	17.2	16.7	22.2	22.4
2	23.9	24.6	26.9	27.0	28.4	32.3	36.2	38.3	40.0	42.6	44.3
3	10.9	15.6	17.9	18.3	20.4	20.5	20.8	23.1	24.1	25.4	
4								0.8	3.7	4.9	5.6
5	5.6	1.8	3.9	7.3	10.5	14.7	18.1	18.0	21.1	22.2	24.7
6	13.6	15.0	17.0	18.9	20.0	20.1	22.2	23.9	25.0	25.2	22.7
7	13.1	[2] 14.1	17.4	21.4	22.3	26.2	28.5	29.8	27.4	27.7	26.1
8	8.0	12.7	15.5	20.7	24.9	28.5	29.7	30.1	30.4	28.9	28.8
9	16.2	17.5	20.6	23.0	22.2	14.4	21.7	22.5	22.3	24.1	24.5
10	14.3	15.0	16.8	18.7	20.5	19.9	21.0	22.2	23.6	24.1	22.8
11	11.2	8.8	8.1	9.6	10.6	9.6	6.8	9.7	11.0	12.5	14.0
12					14.6	11.9	11.1	12.3	13.3	13.1	13.1
13	12.6	12.1	13.8	15.9	17.2	19.3	21.7	24.1	25.8	26.7	27.2
14	3.2	3.7	4.2	4.3	15.9	18.0	18.8	13.4	16.6	19.2	20.9
15	0	4.5	4.6	5.8	7.3	8.6	11.2	14.2	12.9	8.2	[1]
16		0	0.3	0.5	1.9	3.5	4.3	4.9	5.1	5.2	4.8
17	12.6	12.0	11.5	11.5	12.4	13.5	15.0	16.4	18.1	20.8	22.0
17a						5.0	6.9	9.5	11.9	14.3	16.4
18	10.7	15.2	18.3	19.1	21.5	24.4	24.0	24.3	25.7	27.6	28.3
19						0.7	4.8	8.3	3.7	2.2	4.6
20	12.3	12.5	11.0	12.7	14.2	14.1	15.7	17.1	19.0	19.3	16.8
21	7.1	10.0	11.6	13.4	15.4	16.4	16.7	19.2	21.3	23.5	24.5
22	1.5	1.0	1.1	1.2	6.2	8.8	11.2	7.5	9.9	14.6	19.3
23	4.9	7.0	9.3	12.3	13.9	17.7	20.3	21.0	21.7	22.2	22.4
24	0	0	0	0	3.6	6.5	8.1	9.0	10.2	10.5	12.0
25	0	0	17.0	20.8	23.6	26.3	27.5	24.6	23.1	21.3	20.6
26	12.5	15.1	14.8	14.8	16.3	17.7	21.8	23.4	26.2	27.4	28.3
27	4.5	5.8	5.8	5.7	5.6	5.6	8.2	12.9	16.5	13.6	11.5
28			2.3	4.1	7.0	10.8	14.3	18.8	22.3	25.6	29.5
29	15.7	16.5	17.6	19.1	20.3	23.0	25.8	23.8	25.7	26.5	25.8
30	0.2	0	0.3	2.3	3.8	6.5	9.6	11.5	14.9	18.3	20.7
31								5.0	6.2	6.3	7.1
32										6.9	8.7
33			16.1	15.6	15.1	14.6	12.0	13.0	12.8	14.2	13.4
34		9.9	9.8	9.6	9.5	9.5	2.5	5.5	7.3	9.3	11.0
35	0	0	0.1	0.4	0.6	0.6	1.1	2.3	3.0	4.1	5.2
36	13.2	14.6	14.7	13.8	7.3	8.9	9.9	7.4	7.4	7.5	10.1
37	9.7	11.1	12.1	12.8	13.1	12.9	2.5	2.7	2.2	24.6	22.5
38	5.1	10.5	11.2	12.1	12.8	13.5	13.9	13.5	13.1	9.2	11.3
39	3.5	4.8	5.9	6.9	20.9	23.1	25.3	24.0	28.4	22.4	25.3
40	13.6	16.0	18.7	21.2	23.7	25.5	27.2	28.8	30.1	32.1	
41			8.8	11.2	14.1	16.1	19.4	22.3	22.7	24.5	26.0
42	1.6	1.5	5.2	5.3	6.8	8.9	10.9	13.0	16.7	16.4	19.8
43	15.7	16.7	17.6	18.7	18.9	20.8	22.4	24.3	26.4	27.1	24.3
44	19.3	19.6	19.4	20.5	22.0	23.3	27.8	25.0	23.9	25.7	26.0
45	16.4	17.2	17.9	19.8	18.5	17.5	18.2	19.0	19.0	18.9	17.1
46	9.7	7.9	8.2	8.6	9.0	9.6	12.1	14.3	16.2	18.5	20.7
47				2.8	6.5	10.1	15.0	12.2	17.4	19.9	22.3
48	4.0	8.5	11.2	13.7	14.6	13.8	15.8	16.7	32.0	22.9	20.4
49	6.9	10.6	15.1	18.3	17.7	18.2	16.9	15.9	17.0	17.1	17.4

[1] Sold Aug. 31, 1923.

Statement showing for each class A telephone company for the years 1913 to 1923, inclusive, the ratio of the reserve for accrued depreciation to the total investment in plant and equipment—Continued

Company	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
50	17.2	18.0	20.3	21.4	21.6	24.2	26.5	27.7	27.1	26.3	25.0
51	15.6	16.9	19.6	22.0	24.0	25.6	27.7	29.2	29.3	29.0	27.4
52	8.7	8.1	11.2	13.8	17.2	22.0	25.2	26.8	28.1	31.1	34.2
53	2.7	6.8	11.3	15.7	18.9	22.4	23.1	23.7	24.6	25.7	25.4
54	9.5	9.1	9.6	11.5	13.4	15.7	16.6	16.8	18.8	20.5	23.1
55	7.8	8.0	8.5	10.1	11.1	13.6	15.3	7.5	8.9	11.2	13.0
56	10.3	11.1	11.8	13.2	15.4	18.1	20.3	22.2	23.7	24.1	22.6
57	5.0	7.0	4.3	7.3	10.4	15.0	18.0	20.1	20.5	19.7	24.8
58		0	0	0	0	0	0	3.1	0.2		20.7
59	0	0	0	0	1.8	3.2	6.9	9.4	10.1	11.7	13.2
60				2.8	5.5	15.2	19.5	24.9	27.5	25.4	26.9
61	14.8	16.0	17.0	19.0	20.7	22.3	23.4	26.1	27.2	6.1	6.9
62				0.1	3.3	4.4	6.1	7.8	10.3	10.7	11.5
63	9.1	12.7	16.7	21.3	18.6	22.7	26.0	30.1	33.8	36.9	40.2
64	8.6	9.8	11.5	14.0	16.6	18.4	19.7	21.4	21.8	22.6	22.7
65					11.2	13.7	17.1	19.9	19.1	15.6	9.6
66	17.5	19.5	22.8	24.0	24.6	26.6	28.9	29.6	28.5	28.3	28.5
67	4.1	7.0	9.6	12.1	13.6	15.7	18.5	20.7	21.7	22.1	22.1
68		0	0	0	0	0.7	2.3	2.6	3.8	4.7	6.4
69	9.3	9.5	9.9	6.9	6.4	6.9	11.1	10.4	11.7	11.2	12.5
70	5.3	7.2	6.4	6.4	7.5	7.6	9.0	9.7	8.6	5.9	2.9
71	2.8	6.5	1.2	5.3	9.3	12.0	14.5	16.8	20.0	22.8	23.5
72	28.8	15.6	19.0	20.1	19.1	20.4	22.1	18.0	18.6	16.9	17.5
73		0	0	0	0	0	0	3.1	0.2	0.4	21.0
74	30.9	37.3	40.5	44.1	47.7	52.7	50.9	47.3	31.1	33.6	32.9
75	5.9	8.2	10.8	10.7	12.4	14.5	16.3	19.3	20.6	23.1	23.3
76	28.9	31.0	33.9	34.3	32.9	33.9	35.6	34.2	33.2	27.6	26.0
77	0	0	0	0	3.9	6.4	6.4	6.9	7.9	11.3	14.2

Index to class A telephone companies.

1. American Telephone & Telegraph Co.
2. Aroostook Telephone & Telegraph Co.
3. Asheville Telephone & Telegraph Co.
4. Associated Telephone Co. (California).
5. Bell Telephone Co. of Nevada.
6. Bell Telephone Co. of Pennsylvania.
7. Bluefield Telephone Co.
8. Carolina Telephone & Telegraph Co.
9. Chesapeake & Potomac Telephone Co. (New York).
10. Chesapeake & Potomac Telephone Co. of Balto. City.
11. Chesapeake & Potomac Telephone Co. of Virginia.
12. Chesapeake & Potomac Telephone Co. of West Va.
13. Cincinnati & Suburban Bell Telephone Co.
14. Citizens Independent Tel. Co. (Terre Haute, Ind.).
15. Citizens Telephone Co. (Grand Rapids, Mich.).
16. Consolidated Telephone Co. (Pennsylvania).
17. Cumberland Telephone & Telegraph Co. of Kentucky.
17a. Cumberland Valley Telephone Co. of Pennsylvania.
18. Dakota Central Telephone Co.
19. Dallas Telephone Co. (Texas).
20. Delaware & Atlantic Telephone & Telegraph Co.
21. Diamond State Telephone Co.
22. Fayette Home Telephone Co.
23. Glen Telephone Co.
24. Home Telephone Co. (Joplin, Mo.).
25. Home Telephone & Telegraph Co. (Fort Wayne, Ind.).

26. Home Telephone & Telegraph Co. (Henderson, N. C.).
27. Home Telephone & Telegraph Co. (Pasadena, Calif.).
28. Home Telephone & Telegraph Co. (Spokane, Wash.).
29. Illinois Bell Telephone Co.
30. Independent Telephone Co. (of Council Bluffs, Iowa).
31. Indiana Bell Telephone Co.
32. Inter-Mountain Telephone Co.
33. Interstate Utilities Co.
34. Jamestown Telephone Corporation (Jamestown, N. Y.).
35. Johnstown Telephone Co.
36. Kansas City Long Distance Telephone Co.
37. Kansas City Telephone Co.
38. Keystone Telephone Co. of Philadelphia.
39. Kinloch-Bloomington Telephone Co.
40. Kinloch Long Distance Telephone Co. of Mo.
41. Lima Telephone & Telegraph Co.
42. Lincoln Telephone & Telegraph Co.
43. Louisville Home Telephone Co.
44. Mansfield Telephone Co.
45. Michigan State Telephone Co.
46. Mountain States Telephone & Telegraph Co.
47. Murphysboro Telephone Co.
48. Mutual Telephone Co. (Erie, Pa.).
49. Mutual Telephone Co. (Honolulu, T. H.).
50. New England Telephone & Telegraph Co.
51. New York Telephone Co.
52. North Dakota Independent Telephone Co.
53. Northern New York Telephone Corporation.
54. Northwestern Bell Telephone Co.
55. Ohio Bell Telephone Co.
56. Pacific Telephone & Telegraph Co.
57. Peninsular Telephone Co.
58. Penn State Telephone Co.
59. Petroleum Telephone Co.
60. Puget Sound Telephone Co.
61. Rochester Telephone Corporation.
62. Santa Barbara Telephone Co.
63. Sioux City Telephone Co.
64. Southern Bell Telephone & Telegraph Co. (of New York).
65. Southern California Telephone Co.
66. Southern New England Telephone Co.
67. Southwestern Bell Telephone Co. (Missouri Corporation)
68. Texas Telephone Co.
69. Tri-State Telephone & Telegraph Co.
70. Union Telephone Co. (Owosso, Mich.).
71. United Home Telephone Co. (Muskegon, Mich.).
72. United Telephone Co. (Abilene, Kans.).
73. United Telephone & Telegraph Co.
74. Vermillion County Telephone Co.
75. Western Electric Telephone System.
76. Wisconsin Telephone Co.
77. York Telephone & Telegraph Co.

APPENDIX F

Statement showing classes of fixed property for which a reserve for accrued depreciation has been set up by Class I carriers, with the views of carriers as to what other classes of fixed property may be considered as depreciable. (Compiled from answers to the commission's questionnaire, a part of the record in No. 15100)

Name of road	Classes of fixed property considered as depreciable by carriers. (See note 3)	Whether or not depreciation accounting for fixed property has been observed. (See note)
Boston and Albany R. R. C. C. C. and St. Louis Ry. Co. Cincinnati Northern R. R. Co. Kanawha and Michigan Ry. Co. Lake Erie and Western R. R. Co. Michigan Central R. R. Co. New York Central R. R. Co. Pittsburgh and Lake Erie R. R. Co. Rutland R. R. Co. Toledo and Ohio Central Ry. Co.	All property the retirement of which is ultimately determined by obsolescence or inadequacy.	1
Columbus and Greenville R. R. Co. Alabama Great Southern R. R. Co. C. N. O. and Texas Pacific Ry. Co. Georgia Southern and Florida Mobile and Ohio R. R. Co. Northern Alabama Ry. Co. Southern Ry. Co. New Orleans & N. Eastern R. R. Co.	Bridges, trestles, and culverts; elevatedstructures; crossings and signs; station and office buildings; roadway buildings; water stations; fuel stations; shops and enginehouses; grain elevators; storage warehouses; coal and ore wharves; signals and interlockers; power-plant buildings; power substation buildings; shop machinery; power-plant machinery; and power substation apparatus. Minor items of the classes indicated are excluded.	1
Atlanta and West Point R. R. Co.	Bridges; buildings; coal chutes; other track material; rail; stock pens; telegraph lines; and water stations.	2
Atlanta, Birmingham and Atlantic Ry.	Station and office buildings; roadway buildings; water stations; fuel stations; shops and enginehouses; wharves and docks; and power-plant buildings.	2
Bingham and Garfield R. R.	Bridges, trestles, and culverts; crossings and signs; fuel stations; miscellaneous structures; other track material; power-distribution systems; rails; right-of-way fences; roadway buildings; roadway machines; shop machinery; shops and enginehouses; turntables; signals and interlockers; snow fences; station and office buildings; telephone and telegraph lines; ties; tunnel lining; and water stations.	2
Buffalo and Susquehanna R. R.	Bridges; crossings and signs; fuel stations; power-plant buildings; power-plant machinery; station and office buildings; signals; shops and enginehouses; shop machinery; tunnels; and water stations.	1
Chicago, Milwaukee & St. Paul Ry. Co.	All important structures having a minimum life of 15 years and minimum cost of $50,000. Among items of this kind on the C., M. & St. P. are bridges across the Mississippi, Missouri, and other large streams and large buildings such as depots at Milwaukee, Minneapolis, Butte, and Spokane, and shop buildings at the larger shop points.	1
Central Vermont Ry. Co.	Ballast; bridges trestles and culverts; crossings and signs; fuel stations; other track material; rails; right of way fences; roadway; roadway buildings; roadway machines; shops and enginehouses; shop machinery; signals and interlockers; station and office buildings; telegraph and telephone lines; ties; water stations; and wharves and docks.	2
Duluth and Iron Range R. R.	Coal and ore wharves, and wharves and docks	2

Statement showing classes of fixed property for which a reserve for accrued depreciation has been set up by Class I carriers, with the views of carriers as to what other classes of fixed property may be considered as depreciable—Continued

Name of road	Classes of fixed property considered as depreciable by carriers. (See note 3)	Whether or not depreciation accounting for fixed property has been observed. (See note)
Denver and Rio Grande Western	Underground power tubes; linings of tunnels or subways; elevated structures; ballast track laying and surfacing; right of way fences; snow and sand fences; snow sheds; crossings and signs; power line poles and fixtures; underground conduits; miscellaneous structures; and roadway machines. Many other classes of property such as station and office buildings; roadway buildings; water stations; fuel stations; grain elevators; power plant buildings etc., might possibly be classed as depreciable if the replacement of the various parts could be coordinated into the replacement of the whole in order to get rate of depreciation on the structures themselves. As to wharves and docks; power dams and pipe lines; roadway small tools; and assessments for public improvements, depreciation accounting could be made applicable.	1
Duluth, Missabe and Northern Ry	Coal and ore wharves, and wharves and docks	2
Detroit, Grand Haven and Milwaukee Ry.	Large station and office buildings; bridges; tunnels; or other facilities of such magnitude that their replacement, if charged to maintenance expenses during a comparatively short period, would unbalance the normal maintenance accounts.	1
Detroit, Toledo and Ironton R. R. Co.	Bridges and buildings	1
Duluth, South Shore and Atlantic Ry.	Ore docks	2
Ft. Worth and Rio Grande Ry. Co.	Bridges	1
Great Northern R. R.	Units of fixed property such as large passenger stations; bridges and shops and other structures the retirement of which would involve the charging to operating expenses in one amount of a large sum.	1
	Coal and ore wharves; ore docks; and miscellaneous structures.	2
Grand Trunk Western Ry	Large station and office buildings; bridges; and tunnels or other facilities of such magnitude that their replacement, if charged to maintenance expenses during a comparatively short period, would unbalance normal maintenance accounts.	1
Gulf and Ship Island R. R.	Buildings; water stations; fuel stations; interlockers; roadway machines; shop machinery; storare warehouses; docks and wharves; rail; ties; and bridges.	2
Kansas, Oklahoma & Gulf R. R.	Bridges; buildings; right of way fences; fuel stations; other track material; rails; shops and engine houses; ties; telephone and telegraph lines; and water stations.	1
Kansas, Oklahoma & Gulf Ry. of Texas.	Ties; rail; other track material; bridges; buildings; right of way fences; water stations; fuel stations; shops and enginehouses; and telegraph and telephone lines.	1
Long Island R. R. Co.	Power distribution system; power line poles and fixtures; power transmission systems; power substation apparatus; power substation buildings; and shop machinery.	2
Lake Superior and Ishpeming Ry. Co.	Shop machinery; power plant machinery; buildings; bridges and culverts; coal and ore wharves; crossings and signs; fencing; roadway machines; telephone and telegraph lines; water stations; and rails.	2

Statement showing classes of fixed property for which a reserve for accrued depreciation has been set up by Class I carriers, with the views of carriers as to what other classes of fixed property may be considered as depreciable—Continued

Name of road	Classes of fixed property considered as depreciable by carriers. (See note 3)	Whether or not depreciation accounting for fixed property has been observed. (See note)
Montour R. R. Co.	Ballast; bridges; crossings and signs; other track material; rails; right of way fences; roadway; telephone and telegraph lines; ties; tunnels and subways; fuel stations; roadway buildings; shops and enginehouses; shop machinery: signals and interlockers; small tools and supplies; station and office buidilngs; water stations; and roadway machines.	2
Louisville, Henderson & St. Louis Ry. Co.	Ties; rails; frogs and switches; ballast; buildings; bridges; and trestles.	1
Louisville and Nashville R. R. Co.	Ballast; other track material; rails; and ties.	2
Minneapolis and St. Louis R. R. Co.	Bridges trestles and culverts; crossings not at grade station and office buildings; water stations; fuel stations; and shops and enginehouses. Depreciation for road accounts should be charged only on structures which cost in excess of $10,000.00.	1
Missouri and North Arkansas R. R. Co.	Station and office buildings; water stations; roadway buildings; fuel stations; shops and enginehouses; grain elevators; storage warehouses; wharves and docks; coal and ore wharves; power plant buildings; power substation buildings; miscellaneous structures; roadway machines; shop machinery; and power plant machinery.	1
Nevada Northern Ry. Co.	Ballast; bridges: crossings and signs; fuel stations; grading; miscellaneous structures; other track material; power distribution systems; rails; right of way fences; roadway machines; roadway buildings; shops and engine houses: shop machinery; signals and interlockers; station and offic buildings; telephone and telegraph lines; ties; tunnels; underground conduit; and water stations.	2
New Orleans Great Northern R. R.	Bridges, trestles, and culverts; station and office buildings; roadway building; water stations; fuel stations; shops and engine houses; signals and interlockers; miscellaneous structures; rail; ties; and steel bridges.	2
New York, New Haven & Hartford R. R.	Bridges, trestles, and culverts; coal and ore wharves; crossings and signs; elevated structures; fuel stations; grain elevators; miscellaneous structures; power dams; canals and pipe lines; power plant machinery; power substation apparatus; shop machinery; shops and engine houses; signals and interlockers; snow and sand fences; snow sheds; station and office buildings; storage warehouses; tunnels and subways; water stations; and wharves and docks.	1
	Power distribution systems; power line poles and fixtures; power plant buildings; power substation buildings; and power transmission system: For this company no single unit of property should be depreciated unless the cost exceeds $150,000.	2
Norfolk & Western Ry. Co.	Bridges, trestles and culverts; station and office buildings; track scales; water stations; fuel stations; shops and engine houses; grain elevators; wharves and docks; coal and ore wharves; power plant buildings; power transmission systems; power distribution systems; power line poles and fixtures; shop machinery; and power plant machinery.	2
Oahu Ry. and Land Co.	Ballast; bridges, trestles, and culverts; crossings and signs; fuel stations; miscellaneous structures; other track material; paving; right of way fences; roadway buildings; roadway machines; station and office buildings; signals and interlockers; shops and engine houses; shop machinery; water stations; and wharves and docks.	2

Statement showing classes of fixed property for which a reserve for accrued depreciation has been set up by Class I carriers, with the views of carriers as to what other classes of fixed property may be considered as depreciable—Continued

Name of road	Classes of fixed property considered as depreciable by carriers. (See note 3)	Whether or not depreciation accounting for fixed property has been observed. (See note)
Pennsylvania system	Ties; rails; other track material; crossings and signs; signals and interlockers; power line poles and fixtures; power substation buildings; power transmission systems; power substation apparatus; power distributing system; ballast; water stations; right of way fences; power plant machinery; underground conduits; cable; bulkheads; ferry buildings; and ferry bridges and pontoons. (Depreciation on the units indicated are only included on the electrified and water line property of the Pennsylvania system except that depreciation accounting has been applied to certain other bridges and ore docks.)	2
Richmond, Fredericksburg & Potomac R. R.	Bridges; buildings; crossings and signs; fences; power plant machinery; power substation apparatus; power line poles and fixtures; rail; track material; roadway machines; signals and interlockers; telephone and telegraph lines; and shop machinery.	1
San Antonio, Uvalde & Gulf R. R.	Bridges, trestles, and culverts; crossings and signs; fuel stations; miscellaneous structures; other track material; rail; roadway machines; right of way fences; station and office buildings; shops and engine houses; shop machinery; ties; telephone and telegraph lines; and water stations.	1
St. Louis-San Francisco Ry. Co.	Power plant machinery; station and office buildings; shops and enginehouses; shop machinery and tools; and tunnels.	1
	Bridges	2
Spokane International Ry. Co.	Bridges trestles and culverts; buildings; right of way fences; roadway machines; shop machinery; shops and enginehouses; fuel stations; water stations; ties; rails; and tunnels. By being currently renewed necessity of depreciation accounting is avoided.	1
Utah Ry. Co.	Bridges trestles and culverts; right-of-way fences; crossings and signs; station and office buildings; water stations; fuel stations; shops and enginehouses; telephone and telegraph lines; miscellaneous structures; roadway buildings; and rails.	2
Western Ry. of Alabama	Bridges; buildings; coal chutes; other track material; rail; stock pens; telegraph lines; water stations; and shop machinery.	2
Virginian Ry. Co.	Bridges of steel and masonry costing $20,000 or more; buildings of brick and concrete or frame costing $12,000 or more; grading; track scales costing $12,000 or more; turntables and appurtenances costing $10,000 or more; water stations costing $20,000 or more; wharves: and shop machinery.	1
	(Annual reports show a balance in the reserve for fixed property indicating that subsequent to 1920 depreciation accounting was observed for certain classes of fixed property.	2

Reference figures in right-hand column:

1. The carrier has not been accounting for accrued depreciation on fixed property, except where note 2 also appears.

2. The carrier has been accounting for accrued depreciation on classes of fixed property indicated.

3. It has been assumed that where depreciation accounts have been established for a class of property the carrier considers the same depreciable.

ORDERS

At a General Session of the INTERSTATE COMMERCE COMMISSION held at its office in Washington, D. C., on the 2d day of November, A. D. 1926

No. 14700

Depreciation Charges of Telephone Companies

It appearing, That in compliance with paragraph (5) of section 20 of the interstate commerce act, as amended by the transportation act, 1920, the commission entered upon an investigation into and concerning depreciation charges of common carriers subject to the act;

It further appearing, That a full investigation of the matters and things involved, in so far as they concern telephone companies, has been had, and that the commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That all class A, class B, and class C telephone companies subject to the interstate commerce act shall, effective January 1, 1928, institute depreciation accounting, as hereinafter prescribed, with respect to the following classes of fixed capital, found in the accompanying report to be classes of property for which depreciation charges may properly be included under operating expenses:

Right of way.
Buildings.
Central office telephone equipment.
Other equipment of central offices.
Station apparatus.
Station installations.
Interior block wires.
Private branch exchanges.
Booths and special fittings.
Exchange pole lines.
Exchange aerial cable.
Exchange aerial wire.
Exchange underground conduits.
Exchange underground cable.
Exchange submarine cable.
Toll pole lines.
Toll aerial cable.
Toll aerial wire.
Toll underground conduit.
Toll underground cable.
Toll submarine cable.
Office furniture and fixtures.
General shop equipment.
General store equipment.
General stable and garage equipment.
General tools and implements.

It is further ordered, That in the application of this order the terms "service life," "service value," "net salvage value," "extraordinary repairs," and "straight-line method" shall be construed in accordance with the definitions and explanations given therefor in the accompanying report.

It is further ordered, That depreciation accounting as referred to in this order shall mean—

(*a*) The charging to operating expenses and the crediting to a depreciation reserve during the service life of the property, as hereinafter provided, of amounts which will approximate the loss in service value not restored by current maintenance, other than extraordinary repairs, and incurred in connection with the consumption or prospective retirement of property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy; and

(*b*) The crediting of the ledger value of property at time of retirement to the appropriate primary fixed capital accounts and the charging to the appropriate primary accounts under operating expenses of the service value of property when retired and of the full cost of extraordinary repairs when made, with concurrent release from the depreciation reserve by charges thereto and concurrent credit to the appropriate credit account or accounts which shall be provided for that purpose in operating expenses under "Maintenance expenses," of such service value and of that portion of the cost of such extraordinary repairs which, under the provisions of this order, is chargeable to the reserve.

It is further ordered, That the annual charges to operating expenses for currently accruing depreciation shall be computed as hereinafter provided, at such percentage rate of the ledger value of the property in question that the service value may be distributed under the straight-line method in equal annual charges to operating expenses during the estimated service life of the property. Annual charges so computed shall be reduced to a monthly basis by dividing by 12.

It is further ordered, That all depreciation charges to operating expenses and concurrent credits to the depreciation reserve shall be made monthly in conformity with the group plan of accounting for depreciation, as explained in the accompanying report and as hereinafter provided, and in determining such monthly charges and credits the annual percentage rates shall be applied to the total ledger value, as of the first of each month, of the respective primary accounts covering the classes of property hereinbefore specified, and the result divided by 12.

It is further ordered, That in determining the monthly depreciation charges to operating expenses and the corresponding credits to the depreciation reserve a composite percentage rate shall be computed for each of the primary accounts in the classification of fixed capital covering the classes of property hereinbefore specified; that such composite rate shall be based upon estimated service values

and service lives developed by a study of the company's history and experience and such engineering information as may be available with respect to future prospects and shall produce a charge to operating expenses for the primary account, where more than one class of property is covered by the account, equal to the sum of the amounts that would otherwise be chargeable for each of the various classes; and that such composite rate shall be ascertained at the beginning of the year and its use continued throughout the year unless the changes during the year in the relative quantities of the various classes of property included in the primary account where more than one class is included, are sufficient to produce a serious discrepancy in the reserve, in which event an appropriate change in the composite rate shall be made, subject to the approval of the commission.

It is further ordered, That not later than September 1, 1927, each operating class A, class B, and class C telephone company subject to the act shall file with the State commission or commissions having jurisdiction over it, estimates of the composite percentage rates applicable to the ledger values of the respective primary accounts in the classification of fixed capital, covering property owned, leased, or operated under contract by such company, such estimates to be arrived at in the manner hereinbefore prescribed and accompanied by a sworn statement showing the bases therefor and the methods employed in their computation: *Provided, however*, That in instances where no State commission has jurisdiction or is willing to act in the premises the estimates and accompanying statements shall be filed with this commission within the same period.

Upon submission by telephone companies of the percentages and accompanying data to the State commission or commissions having jurisdiction, it is expected that such commissions will submit recommendations to this commission, and after consideration thereof appropriate temporary orders will be issued by this commission, subject to subsequent modification from time to time in accordance with the procedure set forth in the accompanying report.

It is further ordered, That charges to the depreciation reserve incident to extraordinary repairs shall be made as follows:

(*a*) Where a longitudinal section of a continuous structure, such as an aerial wire or cable, or underground conduit, etc., is renewed in its entirety, or where parts of such structures of a particular type are replaced by the substitution of parts of an improved type or design, the ledger value of the property so retired, determined by taking a proper proportionate part of the total ledger value of the continuous structure, shall be credited to the investment account and concurrently a similar amount, after deducting net salvage value, shall be released from the depreciation reserve by charge thereto and credit to the appropriate credit account or accounts in operating expenses; and

(*b*) Where the total cost of repairs to a particular unit of property exceeds a certain minimum sum and also exceeds a certain minimum percentage of the ledger value of the unit, an amount equal to the cost of such repairs in excess of such minimum percentage shall be released by charge to the depreciation reserve and concurrent credit to the appropriate credit account or accounts in operating expenses: *Provided, however*, that if the total cost of repairs exceeds a certain maximum percentage of the ledger value, the unit shall be deemed to have been retired from service and shall be accounted for accordingly;

and that the minimum and maximum percentages and minimum sum referred to in (*b*) above shall be those specifically prescribed hereafter in the manner indicated in the accompanying report.

It is further ordered, That upon retirement of a unit of property an amount equal to its service value shall be released by charge to the depreciation reserve and shall be credited to the appropriate credit account, hereinbefore required, under operating expenses.

Provided, That if the cause of retirement is not a recognized factor in depreciation, as explained in the accompanying report, but is a cause against which the carrier is insured, the depreciation reserve shall be credited with the full amount of insurance recovered; and

Provided further, That if the cause of the retirement is not a recognized factor in depreciation and the loss is not covered by insurance, the carrier may, upon proof that the charge to the depreciation reserve will result in undue depletion thereof, and with the approval of the commission, increase the amount charged each year to operating expenses on account of depreciation, over a period of years in the future, to the extent necessary to make good such depletion.

It is further ordered, That in determining the amounts to be respectively credited to the primary fixed plant accounts and charged to the material and supplies account and to the depreciation reserve in the case of the retirement of property, amounts for specific units shall be used so far as practicable; but that where this is impracticable because of the relatively large number and small size of the units, average amounts shall be used.

It is further ordered, That each class A, class B, or class C telephone company subject to the act that has not yet distributed its investment in fixed capital to the various primary accounts applicable thereto shall do so not later than January 1, 1928.

It is further ordered, That each operating class A, class B, and class C telephone company shall keep a record of property retirements which shall reflect the service life and percentage of salvage value of each important class of property hereinbefore specified, shall maintain in convenient and accessible form engineering data bearing

on prospective service lives, and shall be prepared at any time upon direction by the commission to compute and submit, for the commission's approval, new percentage rates to take the place of those based upon service lives or percentages of salvage value found to be inaccurate.

It is further ordered, That each operating class A, class B, and class C telephone company shall include in its annual report to the commission a concise statement showing by primary accounts the extent, if any, to which ordinary maintenance of the property which it operates has been neglected or deferred during the year, such statements to be subscribed and sworn to by an official of the company having knowledge of the facts.

It is further ordered, That with respect to property used for common carrier purposes which is leased or operated under contract operating telephone companies, classes A, B, and C, shall include in operating expenses charges and credits for depreciation, extraordinary repairs, and retirements upon the same basis as for owned property and shall maintain the same records of service lives, salvage values, etc., and make the same reports concerning neglected or deferred maintenance as are required for owned property.

It is further ordered, That all accounting procedure specifically provided in this order shall be subject to such modification as may be necessary to bring it into harmony with any accounting classifications subsequently prescribed by the commission.

No. 15100

Depreciation Charges of Steam Railroad Companies

It appearing, That in compliance with paragraph (5) of section 20 of the interstate commerce act, as amended by the transportation act, 1920, the commission entered upon an investigation into and concerning depreciation charges of common carriers subject to the act;

It further appearing, That a full investigation of the matters and things involved, in so far as they concern steam railroads, has been had, and that the commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That all steam railroad companies subject to the interstate commerce act shall, effective January 1, 1928, institute depreciation accounting, as hereinafter prescribed, with respect to the following classes of common-carrier property, found in the

accompanying report to be classes of property for which depreciation charges may properly be included under operating expenses:

Road:
- Underground power tubes.
- Tunnels and subways.
- Bridges, trestles, and culverts.
- Elevated structures.
- Ties.
- Rails.
- Other track material.
- Ballast.
- Right-of-way fences.
- Snow and sand fences and snowsheds.
- Crossings and signs.
- Station and office buildings.
- Roadway buildings.
- Water stations.
- Fuel stations.
- Shops and engine houses.
- Grain elevators.
- Storage warehouses.
- Wharves and docks.
- Coal and ore wharves.
- Gas producing plants.
- Telegraph and telephone lines.
- Signals and interlockers.
- Power dams, canals, and pipe lines.
- Power plant buildings.
- Power substation buildings.
- Power transmission systems.
- Power distribution systems.
- Power line poles and fixtures.
- Underground conduits.
- Miscellaneous structures.
- Paving.
- Roadway machines.
- Shop machinery.
- Power plant machinery.
- Power substation apparatus.

Equipment:
- Steam locomotives.
- Other locomotives.
- Freight-train cars.
- Passenger-train cars.
- Motor equipment of cars.
- Floating equipment.
- Work equipment.
- Miscellaneous equipment.

Provided, That in case a steam railroad company can show that the service life of its property is dependent upon a particular source of traffic, upon exhaustion of which the operation of the property for common-carrier purposes must be abandoned, and that the time of such exhaustion can be predicted with a reasonable degree of accuracy, then the entire property of such railroad may be classed as depreciable, in which case, however, the depreciation due to this particular factor shall be provided for through a special *amortization* account, instructions as to which will hereafter be given.

It is further ordered, That in the application of this order the terms "service life," "service value," "net salvage value," "extraordinary repairs," "straight-line method," and "ledger value" shall be construed in accordance with the definitions and explanations given therefor in the accompanying report.

It is further ordered, That depreciation accounting as referred to in this order shall mean:

(*a*) The charging to operating expenses and the crediting to a depreciation reserve during the service life of the property, as hereinafter provided, of amounts which will approximate the loss in service value not restored by current maintenance, other than extraordinary repairs, and incurred in connection with the consumption or prospective retirement of property in the course of

service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and whose effect can be forecast with a reasonable approach to accuracy; and

(*b*) The crediting of the ledger value of property at time of retirement to the appropriate primary road and equipment accounts and the charging to the appropriate primary accounts under operating expenses of the service value of property when retired and of the full cost of extraordinary repairs when made, with concurrent release from the depreciation reserve by charges thereto and concurrent credit to the appropriate credit accounts which shall be provided for that purpose in operating expenses under general accounts "Maintenance of way and structures" and "Maintenance of equipment," of such service value and of that portion of the cost of such extraordinary repairs which, under the provisions of this order, is chargeable to the reserve.

It is further ordered, That the annual charges to operating expenses for currently accruing depreciation shall be computed, as hereinafter provided, at such percentage rate of the ledger value of the property in question that the service value may be distributed under the straight-line method in equal annual charges to operating expenses during th estimated service life of the property. Annual charges so computed shall be reduced to a monthly basis by dividing by 12.

It is further ordered, That all depreciation charges to operating expenses and concurrent credits to the depreciation reserve shall be made monthly in conformity with the group plan of accounting for depreciation, as explained in the accompanying report and as hereinafter provided, and in determining such monthly charges and credits the annual percentage rates shall be applied to the total ledger value, as of the first of each month, of the respective primary accounts covering the classes of property hereinbefore specified, and the result divided by 12.

It is further ordered, That in determining the monthly depreciation charges to operating expenses and the corresponding credits to the depreciation reserve a composite percentage rate shall be computed for each of the primary accounts in the classification of road and equipment covering the classes of property hereinbefore specified; that such composite rate shall be based upon estimated service values and service lives developed by a study of the carrier's history and experience and such engineering information as may be available with respect to future prospects and shall produce a charge to operating expenses for the primary account, where more than one class of property is covered by the account, equal to the sum of the amounts that would otherwise be chargeable for each of the various classes; and that such composite rate shall be ascertained at the beginning of the year and its use continued throughout the year

unless the changes during the year in the relative quantities of the various classes of property included in the primary account, where more than one class is included, are sufficient to produce a serious discrepancy in the reserve, in which event an appropriate change in the composite rate shall be made, subject to the approval of the commission.

It is further ordered, That, not later than September 1, 1927, each operating steam railroad company subject to the act shall file with the commission estimates of the composite percentage rates applicable to the ledger values of the respective primary accounts, in the classification of road and equipment, covering property owned, leased, or operated under contract by such company, such estimates to be arrived at in the manner hereinbefore prescribed and accompanied by a sworn statement showing the bases therefor and the methods employed in their computation. Following an office check of such data the composite percentage rate of depreciation which shall be charged with respect to each such primary account will be prescribed for each company by temporary order of the commission subject to subsequent modification from time to time in accordance with the procedure set forth in the accompanying report.

It is further ordered, That charges to the depreciation reserve incident to extraordinary repairs shall be made as follows:

(*a*) Where a longitudinal section of a continuous structure, such as a long trestle, right-of-way fence, snowshed, wire line, etc., is renewed in its entirety, or where parts of such structures of a particular type are replaced by the substitution of parts of an improved type or design, such as the substitution of concrete for wooden posts in a fence or of copper wire for steel wire in a telephone or telegraph line, the ledger value of the property so retired, determined by taking a proper proportionate part of the total ledger value of the continuous structure, shall be credited to the investment account and concurrently a similar amount, after deducting net salvage value, shall be released from the depreciation reserve by charge thereto and credit to the appropriate credit account or accounts in operating expenses; and

(*b*) Where the total cost of repairs to a particular unit of property exceeds a certain minimum sum and also exceeds a certain minimum percentage of the ledger value of the unit, an amount equal to the cost of such repairs in excess of such minimum percentage shall be released by charge to the depreciation reserve and concurrent credit to the appropriate credit account or accounts in operating expenses: *Provided, however*, That if the total cost of repairs exceeds a certain maximum percentage of the ledger value, the unit shall be deemed to have been retired from service and shall be accounted for accordingly;

and that the minimum and maximum percentages and minimum sum referred to in (*b*) above shall be those specifically prescribed hereafter in the manner indicated in the accompanying report.

It is further ordered, That upon the retirement of a unit of property an amount equal to its service value shall be released by charge to the depreciation reserve and shall be credited to the appropriate credit account, hereinbefore required, under operating expenses.

Provided, That if the cause of retirement is not a recognized factor in depreciation, as explained in the accompanying report, but is a cause against which the carrier is insured, the depreciation reserve shall be credited with the full amount of insurance recovered; and

Provided further, That if the cause of the retirement is not a recognized factor in depreciation and the loss is not covered by insurance, the carrier may, upon proof that the charge to the depreciation reserve will result in undue depletion thereof, and with the approval of the commission, increase the amount charged each year to operating expenses on account of depreciation, over a period of years in the future, to the extent necessary to make good such depletion.

It is further ordered, That in determining the amounts to be respectively credited to the primary road and equipment accounts and charged to the material and supplies account and to the depreciation reserve in the case of the retirement of property, amounts for specific units shall be used so far as practicable; but that where this is impracticable because of the relatively large number and small size of the units, average amounts shall be used.

It is further ordered, That each steam railroad company subject to the act that has not yet assigned appropriate amounts to the primary road and equipment accounts covering property for which depreciation accounting is herein prescribed, including improvements on leased railway property, shall do so not later than January 1, 1928; that such companies as have already made an assignment of investment to the primary accounts shall redistribute the same; that such distribution or redistribution and the accounting in connection therewith shall be accomplished in accordance with finding (8) of the accompanying report; and that the remainder of the amount representing the carrier's investment in road and equipment shall be carried in subaccounts which will be provided for in the commission's classification for inclusion of the carrier's unassigned investment in road and equipment.

Provided, That such carriers as desire to do so may, upon application to and approval by the commission, extend the distribution or redistribution in accordance with said finding (8) to other primary accounts, with the exception of that covering land, thereby reducing the amount to be carried in the subaccounts covering the unassigned investment.

Provided further, That in all instances where the assignment of amounts to the primary accounts, as above provided, is governed

by paragraph (*b*) of finding (8), complete information pertaining thereto shall be submitted to the commission and such amounts shall not be spread upon the books until the commission has indicated its approval of the same.

It is further ordered, That each steam railroad company shall estimate, in accordance with the principles set forth for the determination of currently accruing depreciation, the amount of past accrued depreciation as of January 1, 1928, for all property for which depreciation accounting is herein prescribed; shall credit to the depreciation reserve such portion of the same as has not previously been so accounted for; and shall concurrently debit a corresponding amount to a suspense account on the assets side of the balance sheet for clearance later in accordance with such instructions as may hereafter be issued by the commission.

It is further ordered, That each operating steam railroad company shall keep a record of property retirements which shall reflect the service life and percentage of salvage value of each important class of property hereinbefore specified; shall maintain in convenient and accessible form engineering data bearing on prospective service lives; and shall be prepared at any time upon direction by the commission to compute and submit, for the commission's approval, new percentage rates to take the place of those based upon service lives or percentages of salvage value found to be inaccurate.

It is further ordered, That each operating steam railroad company shall include in its annual report to the commission a concise statement showing by primary accounts the extent, if any, to which ordinary maintenance of the property which it operates has been neglected or deferred during the year, such statements to be subscribed and sworn to by an official of the company having knowledge of the facts.

It is further ordered, That with respect to property used for common-carrier purposes which is leased or operated under contract operating steam railroad companies shall include in operating expenses charges and credits for depreciation, extraordinary repairs, and retirements upon the same basis as for owned property and shall maintain the same records of service lives, salvage values, etc., and make the same reports concerning neglected or deferred maintenance as are required for owned property.

It is further ordered, That all accounting procedure specifically provided in this order shall be subject to such modification as may be necessary to bring it into harmony with any accounting classifications subsequently prescribed by the commission.

By the commission.

[SEAL.] GEORGE B. MCGINTY,
Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1928

WNH:CO'M.AJK

I. E. 141

ILLINOIS BELL TELEPHONE COMPANY

FINAL COMPLETION REPORT, ESTIMATE NO. 19213

Title: Central Office Telephone Equipment—Machine Switching—Franklin Office.
Date: March 4th, 1925. Chicago Div. Illinois, State.

Actual:	Gross	$5,308,972.32			Salvage & Wiring Gain	$ 147,124.37	Net	$5,161,847.95
Authorized:	Gross	$5,314,056.00			" "	$ 89,200.00	Net	$5,224,856.00
*Difference		$ 5,083.68				$ 57,924.37		$ 63,008.05
*Variation		.10%						
Fixed Capital Accounts						64.9%		1.2%
	Gross		Plant				Net	
Actual:	Additions	$5,297,374.72	Displaced	$ 477,511.00			Additions	$4,819,863.72
Authorized	"	$5,307,556.00	"	$ 305,000.00			"	$5,002,556.00
*Difference		$ 10,181.28		$ 172,511.00				$ 182,692.28
*Variation		.2%		56.5%				3.6%
Reserves (Actual)			Plant					
Removing		$ 11,597.60	Displaced	$ 477,511.00	Salvage	$ 147,124.37	Net	$ 341,984.23
Ex. Repairs		$			Salvage	$	Net	$.....
					Actual:		Net to Reserves	$ 341,984.23
					Authorized:		" " "	$ 222,300.00
					*Difference			$ 119,684.23
					*Variation			53.8%
Wiring Gain (Actual) and Loss			Wiring Loss	$	Wiring Gain	$	Net	$
Maintenance								
Actual,	Gross	$			Salvage	$	Net	$
Est.,	Gross	$			"	$	Net	$

Work Commenced April 18th, 1921 and Completed April 24th, 1924.

387

This estimate provided for the installation of 12247 lines of panel machine switching equipment for the State and Central units in the Franklin Building at 311 W. Washington St., Chicago, Ill. Also for the removal of the old Central manual unit from the Title and Trust Building.

All bills and vouchers have been paid and properly reported. All material, both new and recovered, has been reported to the proper accounts.

An analysis of performance is given on the attached statement.

W. S. 6-26-25.

Central 6/9/23
State 8/4/23 } Cut over dates

Gross additions this year, $243.37.

Approved:

P. M. League, for Plant Accountant, May 29, 1925.

W. F. Patten, Equipment Engineer, 6-3-25.

U. F. Cleveland, General Auditor, June 28, 1925.

Approved:

H. A. Curtis, Gen'l Plant Supt., 6-30-25.

W. O. Kurtz, Chief Engineer, 7-2-25.

F. O. Wales, Vice-Pres. and Gen'l Mgr., 7-6-25.

Board of Directors by:

E. G. Drew, Secretary, July 22, 1925.

WXH:CO'M:HO

ILLINOIS BELL TELEPHONE COMPANY

Summary for Completion Report, Estimate No. 19213:

Expenditures	Actual	Estimated	% Dif.
Chargeable to Central Office Telephone Equipment Installation:			
Material	4,000.00		
Other expenditures	5.50		
Total	4,005.50		
Chargeable to Central Office Telephone Equipment Installation (Mach. switch):			
Labor	49,966.43		
Overhead expense	169,734.24	169,033	
	4,517,473.10	4,739,467	
Other expenditures	181,872.50	26,000	
Total	4,919,046.27	4,934,500	.3
Chargeable to Interest During Construction (Acct. 268):			
Interest	374,322.95	373,056	
Total	374,322.95	373,056	3.0
Chargeable to Central Office Telephone Equipment (Cost of Removing):			
Material	273.43		
Supply expense	2.61		
Labor	8,048.72	6,500	
Overhead expense	1,866.11		
Other expenditures	1,381.73		
Total	11,572.60	6,500	78.0
Chargeable to Central Office Tele. Equipt. (Cost of Removing) (Machine Switching):			
Other expenditures	25.00		
Total	25.00		

Plant Displaced				Salvage		
Actual	Estimated	% Diff.*	Account	Actual	Estimated	% Diff.*
477,364.00	305,000	56.5	Central Ofc. Tel. Equip.	147,124.37	89,200	64.9
147.00			Cent. Ofc. Tel. Equip. (Mach. Switch).			
477,511.00	305,000	56.5		147,124.37	89,200	64.9

*Deficit in red.

April 15, 1925.

ANALYSIS REPORT.

Estimate Cg-19213 Franklin Office, Chicago, Illinois

The work under this estimate was performed under normal conditions with the following exceptions:

Cost of Removing

The overrun of 78% under this account is partly due to underestimating and to it having been necessary to remove the old Central Unit on an emergency basis in order to vacate the Title and Trust Building on which the lease had expired. At the time of removal it was also found necessary to make certain power rearrangements and perform considerable temporary building work not contemplated in the estimate figure. It was also necesary to handle equipment removed on a night basis due to congestion during the day at the loading point.

Cost of Removing (Machine Switching)

The deficit of $25.00 under this account is due to it having been necessary to replace the hand operated transformer control switches in the new machine switching office. This was not originally contemplated.

Plant Displaced

At the time the estimate was prepared a figure of $305,000 was used to cover plant displaced. It was thought that this represented the book value of the manual Central Unit at that time. Subsequently it was found that this figure was erroneous. The actual displacement was made by pricing the equipment taken from our specifications and drawings showing the record of the quipment as it was just before removal and using prices effective at the time the various parts of the equipment were installed. This, together with the cost of hand operated transformer control switches removed from the machine switching office mentioned above under cost of removing, resulted in the actual displacement being 56.5% greater than originally estimated.

Salvage

Owing to the age of the central office equipment displaced, it was originally the intention to junk the greater part of the equipment at a low salvage value. Owing to urgent needs for equipment of similar type at other offices, however, a large part of the equipment was overhauled and reused, and the salvage thus obtained was greatly in excess of the junk value. This resulted in the total salvage being 64.9% higher than estimated.

W. F. PATTEN.

FFV:HR
RJF:

CHICAGO TELEPHONE COMPANY

(Name of company)

AUTHORITY SHEET, ESTIMATE No. Cg-19213.

Department No. I. E. 141. Date September 10, 1919.
Authority is hereby requested for doing the work described below:

(Omit cents)

Summary of Expenditure

Fixed capital, new plant:	
Additions and replacements	$780,000.
Removing plant	5,400.
Total	$785.400.
Gross expenditure	$785.400.

Are expenditures to be charged to plant accounts monthly? No.

To be started	To be finished
3-1-20	12-31-21

Work to be done by Western Electric Co.
Proportion of expenditure to be billed and to whom None.

Classification

Fixed capital:		
Additions and replacements	$780,000.	
Less Plant displaced	225,526.	
Net plant charge		$554,474
Reserve for accrued depreciation:		
Plant displaced	225,526.	
Less salvage	64,574.	
	160,952	
Plus removing plant	5,400.	
Net	$166,352.	
Net charge to reserve		166,352.
Supplies and junk (Salvage on plant displ'd and ext rep.)		64,574.
Gross charge to fixed capital and reserve		$785.400.
Total		$785,400.

Summary of work: Office Franklin Exchange Chicago State Ill.

This estimate covers machine switching equipment consisting of 6435 Lines to be installed in the Franklin Building. This equipment will become Franklin Unit #1 and will replace the manual Majestic unit.

Equipment to be manufactured and installed in accordance with our Questionnaire I. E. #1.

$2,000. under 1920 Budget Proj. 205-C.
$783,400 to be expended subsequent to 1920.
None included in budget for current year.
None to be expended in current year.

Submitted: Approved

Sept 18 1919 T. V. Field. Oct. 1, 1919 W. R. Abbott, General Manager.

Approved:
Sept. 22, 1919
S. J. Larned, Dec. 8, 1919 General Traffic Superintendent.
S. A. Rhodes, Chief Engineer.
9-24 1919 A. R. Bone, 1/7/1920 Gen'l Commercial Supt.
H. T. Hill, Vice President.
Oct. 1 1919 F. Redmund, 1/7 1920 General Plant Supt.
B. E. Sunny, President.
Sept 18 1919 J. T. Ford, Engineer.
Authorized by the Executive Committee List No. 1. Date 2/25/20

Recommendation Sheet.

Department No. I. E. 141

Dated Sept. 10, 1919.

Exchange: Chicago Office Franklin City Chicago State Ill.
Toll Line:

It is recommended that machine switching equipment of the 500 point, panel, type be installed on the second floor of the Franklin Building with an initial capacity of 6435 lines, to be ready for service December 31, 1921. This equipment will be known as Franklin Unit #1 and will replace the present manual Majestic unit and care for growth in the Main, Central and Wabash districts until the end of 1922, at

which time it is expected to have ready for service the second Franklin machine switching unit which will replace the present Central unit and care for growth in the districts mentioned until the end of 1923.

The installation of this equipment (Franklin Unit #1) is necessary to relieve the Main and Central units which are now filled to capacity, and will defer for a number of years the enlargement of the Wabash building which would be necessary to continue beyond the capacity of the present Wabash and Harrison units.

This work will be included in the 1920 Provisional Estimate.

A. R. BONE.

Concurred in

A. R. SMITH, Traffic Engineer.

S. J. LARNED, General Traffic Supt.

RJF:HQ

Recommended:

Sept 18th 1919 W. G. LUSCOMBE, M. C., Commercial Supt.

Oct 2 1919 A. E. VAN HAGAN, Traffic Engineer.

" 3 1919 W. F. PATTEN.

9-30 1919 V. RAY.

CHICAGO TELEPHONE COMPANY

Supplementary to

AUTHORITY SHEET, ESTIMATE No. Cg-19213.

Department No. I. E. 141 Suppl., date January 21, 1920.

Authority is hereby requested for doing the work described below:

(Omit cents)

Summary of Expenditure

Fixed capital, new plant:		
Additions and replacements	$651,000	
Removing plant	6,500	
Total	657,500	
Gross expenditure	657,500	

Are expenditures to be charged to plant accounts monthly—No
To be started, 3-1-20; to be finished, 12-31-22.
Work to be done by Western Electric Co.

Classification

Fixed capital:		
Additions and replacements	$651,000	
Less plant displaced	305,000	
Net plant charge		$346,000
Reserve for accrued depreciation:		
Plant displaced	305,000	
Less salvage	89,200	
	$215,800	
Plus removing plant	6,500	
Net	$222,300	
Net charge to reserve		222,300
Supplies and Junk (salvage on plant displ'd and ext. rep.)		89,200
Gross charge to fixed capital and reserve		$657,500
Total		$657,500

Summary of work: Office, Franklin; exchange, Chicago; state, Illinois.

This estimate is a supplement to Estimate Cg-19213, and covers machine switching equipment for 5,812 lines to be installed in the Franklin building, to be known as Franklin No. 2, and is to replace the present manual Central Unit located at 69 W. Washington street.

It is planned to install both Franklin No. 1 and No. 2 units under one order. The expense included in this supplement is in addition to the original estimate; the expense of both units cannot be kept separate.

Included in 1920 Provisional Estimate Proj. No. 205.

$2,000 included in budget for current year.

Submitted:

T. J. Callahan, Feb. 20, 1920.

Approved:

A. R. Bone, General Commercial Supt., Feb. 24, 1920.
F. Redmund, General Plant Supt., February 28, 1920.
S. J. Larned, General Traffic Supt., March 2, 1920.
J. S. Ford, Engineer, Feb. 24, 1920.

$2,000 to be expended in current year.

Approved:

W. R. Abbott, General Manager, March 3, 1920.
S. A. Rhodes, Chief Engineer, March 5, 1920.
H. R. Hill, Vice President, March 8, 1920.
B. E. Sunny, President, March 8, 1920.

Authorized by the board of directors (not including expenditures for rearrangements and changes and ordinary repairs) List No. 3, April 28, 1920.

ILLINOIS BELL TELEPHONE COMPANY
AUTHORIZATION, ESTIMATE NO. Cg-19213 (Suppl. #2)

Title: Central Office Equipment (Machine Switching) Franklin Office.

Date: Feb. 11, 1921. Chicago Div. Illinois, State. Dept. No. I. E.-141

Fixed Capital Accounts: Gross Additions	$1,007,556	Plant Displaced	$ 225,526				Net Additions	$1,233,082
Reserves: Removing	$ 5,400	Plant Displaced	$ 225,526	Salvage	$ 64,574		Net	$ 166,352
Ex. Repairs	$			Salvage	$		Net	$
Wiring Gain & Loss		Wiring Loss	$	Wiring Gain	$		Net to Reserves	$ 166,352
							Net	$
Gross Expenditure:	$1,002,156			Salvage & Wiring Gain	$ 64,574		Net Requirement	$1,066,730
Maintenance: (To be expended in addition to the above) Gross	$			Salvage	$		Net	$

Work to be Started About 5-1-20 and Completed about 4-1-22.

Nature and necessity of work:

This estimate is a supplement to Estimate Cg-19213 and supplement dated January 21, 1920 and covers the over expenditure on the machine switching equipment to be installed in the Franklin Building and connects the original estimate which called for the removal of the Majestic Unit (now called State).

The over expenditure is due to the increase in cost of equipment of this type and to additional equipment required. (See 2nd page)

This work will be done by the Western Electric Company in accordance with Engineering Department Specification MS-#1 and Appendix.

Included in the 1921 Provisional Estimate as Project #210. $680,000. to be spent in 1921 and the balance in 1922.

Approved:	Date	Approved:	Date
W. F. Patten.	2-18-21	W. R. Abbott, Vice-Pres. & Gen. Mgr.	2/26/21
S. A. Rhodes.	2-24-21	Ernest Bloom, Vice-Pres.	6/27/21
F. O. Hale.	5-1-21	B. E. Sunny, President.	
		Board of Directors	
		E. G. Drew, Secretary.	June 29 1921

The original estimate for the Franklin machine switching equipment was based on a cost of $120.00 per line for the first unit and $112.00 per line for the second unit. The cost of the second unit was covered by a supplement to the original estimate. These costs were obtained from the A. T. & T. Co. during the summer of 1919 before the detail traffic figures for this equipment were completed. Since that time the Western Electric Company's prices on this type of equipment have increased about 28%, and this combined with additional equipment necessary to meet the requirements of longer holding times used in the completed traffic order result in an increased cost of the Franklin units of about 60%, or a total of approximately $190.00 per line.

Some additional expense is also chargeable to the estimate due to the change in the method of distributing final accounts of certain overhead expenditures and the addition of interest

during construction, as outlined in General Bulletin No. 107. This routine has made it necessary to provide in this second supplementary estimate an item of $38,752.00 for interest during construction and $104,400.00 to cover overhead expense. Also, on account of it having been recently decided not to remove the State manual unit, we have in this supplement credited the estimate with the cost of removing this unit, which expense was charged to the original estimate.

ILLINOIS BELL TELEPHONE COMPANY.

(Name of company)

Authorization, Estimate No. Cg-19213, Supp. No. 3.

Dept. No. IE-141.

Title Central Office Equipment (Machine Switching) Franklin Office.

Date December 19, 1921. Chicago Div. Illinois State

Fixed capital accounts:

Gross	Net
Additions $1,732,000	Additions $1,732,000

Gross	Net
Expenditure: $1,732,000	Requirement $1,732,000

Work to be started about May 1, 1921 and completed about March 1, 1923.

Nature and necessity of work:

This supplemental estimate provides for additional expenditure necessary to complete the installation of machine switching equipment in the Franklin building, as covered by approved estimate Cg-19213 and supplements 1 and 2 thereto.

It has been found that the unit cost figures used as a basis for the previous supplemental estimate were too low. This supplemental estimate No. 3 is based on the best figures available at this time. The Western Electric Company have not yet submitted a contract.

The present estimate is based on Western Electric Company's estimate of total billing, $3,550,000, for material and labor. This checks within 2 per cent of the estimate based

on the A. T. & T. Co.'s latest unit costs, forwarded in September, 1921.

The installation and engineering costs were previously estimated at about 25 per cent of the material cost and the present estimate is 16⅔ per cent. This explains the relatively small increase in the estimated cost of labor.

Telephone Company overhead expense is based on the total Western Electric Company billing and is increased at the current rate in proportion to the present estimate of costs from $104,400 previously authorized to $133,067.

House service expense had not previously been included as a separate item as the cost per line basis upon which former estimates were made was thought to include this.

Approved:	Date	Approved:	Date
W. F. Patten.	12-20-21	W. R. Abbott.	12-21-21
F. O. Hale,	12-20-21	Ernest Bloom.	12/27/21
Chief Engineer.		B. E. Sunny.	Dec. 23, 1921

Board of Directors
Executive Committee by
E. G. Drew,
Secretary. Dec 28 1921

Freight and cartage have also been added for the same reason.

The item of the transformer secondary wiring is due to change in plans since the estimate of February was prepared.

Interest during construction was underestimated and should have been approximately $69,000, based on starting the installation in April, 1921, and completion April, 1922, as formerly scheduled. The large increase in this item is due to the prolongation of the installing period January to March, 1923, and to the increased cost of equipment and labor.

The present estimated cost of $4,170,556 is an increase of 70 per cent.

This equipment is now being installed by the Western Electric Company, in accordance with Specification MS-1 and appendix.

The additional expenditure covered by this supplement has been included in the revised 1921 Provisional Estimate and in that for 1922.

$318,886 to be spent in 1921
1,150,000 to be spent in 1922
263,114 to be spent in 1923

$1,732,000—Total

Items	Cg-19213 & Supp. 1 & 2	Present Estimate for Total Cost	Increase
1. W. E. Co., apparatus and installing material	$1,836,404	$2,956,000	$1,119,596
2. W. E. Co., installation and engineering expense	459,000	594,000	135,000
3. Total W. E. Co. bill	$2,296,404	$3,550,000	$1,254,59
4. Overhead Expense (Engineering, etc.)	104,400	133,067	28,667
5. House Service	.....	115,600	115,600
6. Freight, Cartage and hoisting.	Incl. in total W. E. Co. bill	12,000	12,000
7. Transformer Secondary Wiring	.....	15,000	15,000
8. Interest during construction.	38,752	344,889	306,137
GRAND TOTAL	$2,438,556	$4,170,556	$1,732,000

FRANKLIN MACHINE SWITCHING CENTRAL OFFICE EQUIPMENT.
GROSS PLANT ADDITIONS.

Original Est. Cg-19213 App'd. Feb. 25, 1920	Suppl. No. 1 Cg-19213 App'd. April 28, 1920	Total of Cg-19213 & Suppl. No. 1	Suppl. No. 2 Cg-19213 Approved June 29, 1921	Suppl. No. 3	Total of Original & Supplts. Nos. 1, 2 &
$ 780,000	$ 651,000	$1,431,000	$1,007,556	$1,732,000	$4,170,55

The above figures cover the original estimate and various Supplementary Estimates for the machine switching central office equipment to be located in the Franklin building.

The original estimate covered the first unit to care for the growth in the loop district.

Supplementary Estimate No. 1 covered the equipment for the second unit necessary to replace the manual Central unit located in the Title and Trust Building.

These two estimates cover the central office equipment which was ordered and engineered, and is being installed as one job.

Supplementary Estimate No. 2 was intended to cover the increase in cost of the equipment covered by the original estimate and Supplementary Estimate No. 1. This increase in cost was due to a general increase in price of the equipment and also to an increase in the amount of equipment which was originally estimated on due to the assumption of a longer holding time, also it provided for additional overhead expense due to a change in the method of distributing the engineering charges. It also provided for interest during construction which was not formerly charged.

Supplementary Estimate No. 3 is due to a further increase in the cost of the equipment and also to an increase in the installation period which results in increasing the interest during construction and the house service charge. The increase in the total cost of the equipment also increases the Telephone Company engineering expense, as this is figured on a percentage basis.

ILLINOIS BELL TELEPHONE COMPANY.

(Name of company)

Executive Copy

Authorization, Estimate No. Cg-19213, Suppl. No. 4.
Dept. #I. E.—141.

Title Central Office Equipment (Machine Switching) Franklin Office.

Date May 8, 1923. Chicago Div. Illinois State

Fixed capital accounts:

Gross		Net	
Additions	$1,137,000	Additions	$1,137,000
Gross		Net	
Expenditure:	$1,137,000	Requirement	$1,137,000

Work started about May 1, 1921 and completed about June 1, 1923

Nature and necessity of work:

This suplemental estimate provides for additional expenditure necessary to complete the installation of machine switching equipment in the Franklin Building, covered by Approved Estimate Cg-19213, and Supplements 1, 2 and 3 thereto.

This increased cost is due in part to the provision of certain additional equipment, including two service observing desks, one for each unit, with the necessary associated equipment, and a pneumatic tube system for sending trouble tickets between various parts of the equipment. There has also been a slight increase in the Western Electric Company's estimated cost of the job. Furthermore, there has been a change in plan in connection with handling incoming traffic from the manual offices to the machine switching office. Under the original plan, key indicator equipment was provided in the manual offices for this purpose under Estimate Cg-20020, but on account of the delay expected in the completion of this equipment, it was decided to cancel the order for it and substitute in its stead additional cordless "B" Board and associated equipment in the Franklin Office. The costs of making this change are, therefore, being included in the Franklin estimate, and the expenditures under Estimate Cg-20020 will be reduced due to not employing key indicator equipment.

The house service, overhead and interest charges have also been somewhat further increased due to the necessity of postponing the cut-over date beyond that expected when the former estimate was prepared.

The following is a classification of the estimated increased expenditure:

Approved:

W. F. PATTEN. 6-19-23
Equipment Engineer.

G. W. MCRAE, 6-20-23
Chief Engineer

6-22-23

F. O. HALE,
Vice Pres. & Genl. Manager.

W. R. ABBOTT, 6-25-23
President.

Board of Directors
E. G. DREW, Jun 27 1923
Secretary.

Franklin Office—Dept. No. I. E.—141

Item	Authorized on Orig. Est. and Suppls. 1, 2 and 3	Total Now Estimated	Increase
1. Material	$2,956,000	$3,840,000	$ 884,000
2. Engineering and Installing	594,000	746,500	152,500
3. Overhead	133,067	169,000	35,933
4. House Service	115,600	126,000	10,400
5. Frt. Cart. and Hoisting	12,000	12,000	.....
6. Trans. Sec. Wiring	15,000	15,000	.....
7. Payment to Edison Co.	.....	26,000	26,000
8. Interest during Construction	344,889	373,056	28,167
Total Gross Additions	$4,170,556	$5,307,556	$1,137,000
Cost of removal	6,500	6,500	.....
Total Gross Expenditure	$4,177,056	$5,314,056	$1,137,000

The entire increase of $1,137,000. wil be expended in 1923. $500,500. of this increase is included in the 1923 Provisional Estimate.

(a) The total gross expenditures involved in this project follow:

Franklin M. S. Equip. Cg-19213 and Suppls. 1, 2 and 3 (approved)	$4,177,056	
Fourth suppl. to Cg-19213 (this supplement)	1,137,000	
Total		$5,314,056
Call indictaor equip. Est. Cg-20020 and 20054		1,296,436
Cutover Est. C-21080	$ 105,820	
Suppl. No. 1 to 21080 (not yet authorized)	92,208	
Total		198,028
Underground cable, Est. C-21075		75,000
Conduit for Central cutover, Est. S-21061		35,000
Building work, Est. Cg-21004, 21045 and miscellaneous orders		35,000
Substation changes, Est. C-21020		705,341
U. G. cable for State cutover—Estimate to be submitted		15,000
Grand Total		$7,673,861

ILLINOIS BELL TELEPHONE COMPANY

Accounts Chargeable, Estimate No. Cg-19213, Suppl. #4

Dept. No. I. E.-141.

Charge: Construction Work in Progress.

Accounts	Gross Additions (a)	Net Additions (b)=(a—c)
C. O. Equipment	$1,108,833	$1,108,833
Interest	28,167	28,167
	$1,137,000	$1,137,000

ILLINOIS BELL TELEPHONE COMPANY

Accounts Chargeable, Estimate No. Cg-19213, Suppl. #4
Comb. Est. Cg-19213, and Suppls. 1, 2, 3 & 4
Dept. No. IE-141.

Charge: Construction Work in Progress.

Accounts	Gross Additions (a)	Net Additions (b)=(a—c)	Plant Displaced (c)	Salvage (d)	Cost of Removing (e)
C. O. Equipment	$4,934,500	$4,629,500	$305,000	$89,200	$6,500
Interest	373,056				
Total	$5,307,556				

Detail Sheet—Construction, Estimate No. Cg-19213,
Suppl. #4
Dept. No. I. E.-141.

Type of Plant: Central Office Equipment. Field Code 7-C.

Detail of Material		Amount
Additional cordless "B" equipment and associated apparatus, service observing desk, pneumatic tube system, and increase in W. E. Co.'s estimated cost		$ 884,000
Additional House Service		10,400
Total Material		$ 894,400
Additional labor	$152,500	
Total Labor		152,500
*Overhead Expense, Eng'g.		35,933
Other Expenditures, Payment to Edison Co.		26,000
Total Estimated Cost		$1,108,833

Detail Sheet—Construction, Estimate No. Cg-19213,
Suppl. #4
Dept. No. I. E.-141.

Type of Plant: Interest during Construction.

Additional Interest during Construction		$ 28,167
Total Material		28,167
Total Estimated Cost		$ 28,167

*Comprises—Plant Supervision, Tool, Engineering and General Expenses.

COMMISSION'S EXHIBIT 29.

EXECUTIVE

WNH:CO'M:GS.
E-402

ILLINOIS BELL TELEPHONE COMPANY
FINAL COMPLETION REPORT, ESTIMATE NO. 25116

Title: Central Office Telephone Equipment—Main Office
Date: June 29, 1926. Chicago Div. Illinois, State.

Actual:	Gross	$ 4,562.99			Salvage & Wiring Gain	$ 65,334.60	Net	$ 60,771.61
Authorized:	Gross	$ 6,661.00			" "	$ 57,738.00	Net	$ 51,077.00
*Difference		$ 2,098.01				$ 7,596.60		$ 9,694.61
*Variation		31.4%				13.1%		18.9%
Fixed Capital Accounts			Plant				Net	
	Gross		Displaced	$220,030.00			Additions	$220,030.00
Actual: Additions		$	"	$220,030.00			"	$220,030.00
Authorized: "		$		$.....				$.....
*Difference		$		%				%
*Variation		%						
Reserves (Actual)			Plant					
Removing		$ 4,562.99	Displaced	$220,030.00	Salvage	$ 65,334.60	Net	$159,258.39
Ex. Repairs		$			Salvage	$	Net	$.....
					Actual: Net to Reserves			$159,258.39
					Authorized: " " "			$168,953.00
					*Difference			$ 9,694.61
					*Variation			5.7%
Wiring Gain (Actual) and Loss			Wiring Loss	$	Wiring Gain	$	Net	$
Maintenance								
Actual,	Gross	$			Salvage	$	Net	$
Est.,	Gross	$			"	$	Net	$

Work Commenced June 27, 1925 and Completed July 16, 1925

Commission's Exhibit 29

53

405

The removal of Central Office equipment by the Western Electric Company at Main Office, Chicago, Illinois, per Chief Engineer's Specifications No. 3064, as follows:

8—7-Panel Subscriber's sections, 3rd Unit, old State, 6th fl.

7—7-Panel Trunk sections, 3rd Unit, old State, 6th fl.

7—8-Panel Subscriber's sections, 3rd Unit, old State, 5th fl.

3—7-Panel Trunk sections, 3rd Unit, old State, 5th fl.

All bills and vouchers have been paid and properly reported.

All material, both new and recovered, has been reported to the proper accounts. An analysis of performance is given on the attached statements.

Gross additions this year, $189.00.

Approved:

P. M. League, for Plant Accountant, July 20, 1926.

L. R. Mapes, for Equipment and Building Engineer, Aug. 4, 1926.

U. F. Cleveland, General Auditor, Aug. 11, 1926.

M. J. Carney, Jr., for Gen'l Plant Supt., 8-12-26.

Meam Peghe, for Chief Engineer, 8-16-26.

P. Stockhausen, for Vice-Pres. and Gen. Mgr., 8-17-26.

Board of Directors:

E. G. Drew, Secretary, Aug. 25, 1926.

ILLINOIS BELL TELEPHONE COMPANY

EXECUTIVE

AUTHORIZATION, EST'MATE NO. C-25116

Dept. No. E-402

Title: Main Office (State Unit)

Date: May 8, 1925. City Div. Illinois, State.

Fixed Capital Accounts:

Gross Additions	$.....	Plant Displaced	$220,030			Net Additions	$220,030
Reserves: Removing	$ 6,661	Plant Displaced	$220,030	Salvage	$ 57,738	Net	$168,953
Ex. Repairs	$			Salvage	$	Net	$
						Net to Reserves	$168,953
Wiring Gain and Loss		Wiring Loss	$	Wiring Gain	$	Net	$
Gross Expenditure:	$ 6,661			Salvage & Wiring Gain	$ 57,738	Net Requirements	$ 51,077
Maintenance: (To be expended in addition to the above)							
Gross	$.....			Salvage	$.....	Net	$.....

Work to be Started about May 15, 1925 and Completed about June 30, 1925.

Commission's Exhibit 29

407
55

The removal of central office equipment by the Western Electric Company at Main Office, Chicago, Illinois, per Traffic Recommendation C-1725, dated April 14, 1925, and Illinois Bell Telephone Company's Specifications No. 3064. The major equipment items to be removed are as follows:

8—7-Panel Subscriber's sections, 3rd Unit, Old State, 6th fl.
7—7-Panel Trunk sections, 3rd Unit, Old State, 6th fl.
7—8-Panel Subscriber's sections, 3rd Unit, Old State, 5th fl.
3—7-Panel Trunk sections, 3rd Unit, Old State, 5th fl.

This is a complete job. There are no correlated expenditures. All expenditures are to be made in 1925. Western Electric Company's schedule calls for completion by June 30, 1925.

Not included in the 1925 Provisional Estimate.

Recommended:
W. F. Patten, Equipment Engineer, 5-8-25.

Approved:
W. O. Hurtz, Chief Engineer, 5-9-25.
S. J. Larned, Assistant General Manager, 5-11-25.
W. R. Abbott, President, 5-13-25.
Board of Directors:
Wm. Lee, Assistant Secretary, May 27, 1925.
W. F. Patten, Equipment Engineer, 5-8-25.

RECOMMENDATION SHEET.

Date, 4-14-25.
City, Chicago, State, Illinois.

Exchange: Main 3rd (Old State)
Toll Line: Traffic Recommendation C-1725.

It is recommended that the Main 3rd Unit (Old State) be removed and disposed of in a manner to be determined by the Chief Engineer.

The major equipment items in this unit are as follows:

8—7-panel A Sections, 6th Floor, Main Office Bldg.
7—7-panel B Sections, 6th Floor, Main Office Bldg.
7—8-panel A Sections, 5th Floor, Main Office Bldg.
3—7-panel B Sections, 5th Floor Main Office Bldg.

This unit was vacated by the cutover of the State Machine Switching Unit in August, 1923.

The existing operated loop units, exclusive of Main No. 3, have a capacity for serving 50,685 lines. On 12-31-24 they contained 47,794 lines. According to the Commercial Forecast of 4-1-25, the capacity of 50,685 lines would be reached on 3-31-26, but in accordance with approved plans, all lines north of the Chicago River, now operated from the Main-Central group of offices, will be cut into the Superior district in November, 1925. After this transfer the capacity of 50,685 lines will not be reached until 9-30-27.

A cost study has been made to determine the economies of again placing the Main 3rd unit in service versus adding panel type machine switching equipment for loop relief. The study was made for a period up to the end of 1930, and it showed a difference of $63,000 in present worth of annual charges in favor of making machine switching additions. As a result of this cost study, it was decided to proceed with an addition to the Central-State machine switching units, and an order for a 4853-line addition has been placed.

CMC—MH

Recommended:

Apr. 14, 1925—S. S. Smith, Local Traffic Engineer.

Apr. 18, 1925—W. F. Patten

Approved:

Apr. 15, 1925—S. J. Larned, General Traffic Supt.

4-20-25—W. A. Kurtz.

COMMISSION'S EXHIBIT 30.

WNH:CO'M:BW

Executive

ILLINOIS BELL TELEPHONE COMPANY
FINAL COMPLETION REPORT, ESTIMATE NO. 25168

E-415
Title: Central Office Telephone Equipment, Automatic Listening straightforward Trunking Equipment. Various Chicago Offices.
Date: March 31st, 1928. Chicago Area. Illinois, State.

Actual	Gross	$2,532,363.44			Salvage & Wiring Gain	$ 47,001.79	Net	$2,485,361.65
Authorized:	Gross	$2,544,696.00			" "	$ 24,024.00	Net	$2,520,672.00
*Difference		$ 12,332.56				$ 22,977.79		$ 35,310.35
*Variation		.5%				95.6%		1.6%

Fixed Capital Accounts	Gross		Plant			Net	
Actual:	Additions	$2,505,836.40	Displaced	$ 258,806.03		Additions	$2,247,030.37
Authorized:	"	$2,508,731.00	Displaced	$ 587,932.00		"	$1,920,799.00
*Difference		$ 2,894.60		$ 329,125.97			$ 326,231.37
*Variation		.1%		56.0%			17.0%

Reserves (Actual)		Plant					
Removing	$ 26,527.04	Displaced	$ 258,806.03	Salvage	$ 47,001.79	Net	$ 238,331.28
Ex. Repairs	$			Salvage	$	Net	$
				Actual:		Net to Reserves	$ 238,331.28
				Authorized:		" " "	$ 599,873.00
				*Difference			$ 361,541.72
				*Variation			60.3%

Wiring Gain (Actual) and Loss						
	Wiring Loss	$	Wiring Gain	$	Net	$

Maintenance						
Actual,	Gross	$ 276,499.82	Salvage	$ 693.74	Net	$ 275,806.08
Est.,	Gross	$ 30,891.00	"	$.....	Net	$ 30,891.00

Work Commenced October 3rd, 1925 and Completed November 26th, 1927.

E-O 58

Commission's Exhibit 30

This estimate provided for the installation of automatic listening straightforward trunking equipment in 28 manual residence offices in Chicago.

All bills and vouchers have been paid and properly reported. All material both new and recovered has been reported to the proper accounts. An analysis of performance is given on the attached statement.

Gross additions this year, $7.86.

A. H. MULLIGAN, *General Manager.*

Approved:

E. P. Heney, for Plant Accountant, May 8, 1928.
R. Harris, Equipment Engineer, May 10, 1928.
U. F. Cleveland, General Auditor, May 21, 1928.

Approved:

M. Hibbitts, for General Plant, 5-23-28.
L. R. Mapes, Chief Engineer, June 2, 1928.
P. Stockhauser, for Vice-President, 6-8-28.
Board of Directors by:
A. R. Bone, Secretary, June 26, 1928.

ANALYSIS REPORT—ESTIMATE C-25168.

April 30, 1928.

The work under this estimate was performed under normal conditions with the exceptions noted below:

Interest During Construction.

Surplus $41,429.02 or 56.2%. In order to take full advantage of the large operating savings and improvement in service resulting from conversion to straightforward trunking, additional relay equipment and temporary trunk units were provided in order that more working equipment could be released for the installation forces. The surplus in interest during construction was due to the shortened schedules made possible.

Cost of Removal.

Surplus $9,437.96 or 26.2%. The estimate included $8,844 for the removal of call circuit keys which were left in place. The balance, $594 was due to miscellaneous changes.

C. O. Telephone Equipment (Changes).

(7-M)	Deficit	$170,220.37	or 573%
(107-M)	Deficit	54,463.77	
Total,		$224,684.14	

At the time the estimate was prepared no distinction was made between codes 7-M and 107-M; all manual rearrangement charges were made to code 7-M. In the approved estimate the statement was made that an estimated expenditure of $75,000 for trunk rearrangement would be correlated with the estimate, but it was later decided that Plant Department maintenance should be charged against this estimate.

The deficit of $224,684 was due to the following expenditures:

Plant Department labor, Jumper work	$75,630
Other Plant Department labor	18,636
Underestimate of W. E. Company labor, based on original contracts	66,135
Rewiring Supr. Telephone Circuits	44,392
*Miscellaneous	19,891
Total Deficit	$224,684

*The miscellaneous item includes rearrangement work in connection with (1) the removal of locked in guard signal from interoffice trunks (wiring changes); (2) installing splitting keys and transferring control circuit leads in toll switching positions, and (3) changing emergency listening jacks.

C. O. Telephone Equipment (Repairs).

Deficit, $3,942. No repairs were required because of conversion to straightforward trunking, but relay equipment which was removed and reused was repaired to improve maintenance conditions.

601—Supervision of Maintenance.

The deficit of $16,769.94 was due to the overrun in maintenance explained above.

Plant Displaced.

Overestimated $329,125.97 or 56.0%.

The call circuit keys although no longer required have been left in place as the cost of removal would exceed the salvage and there is a possibility that they can be used for other purposes.

Call circuit keys left in place.		$405,065
Temporary units and spare relay equipment	$50,592	
"B" supervisors' circuits and miscellaneous	25,347	
Total additional equipment displaced		75,939
Difference (amount overestimated)		$329,126

Salvage (7-X).

Salvage was $22,977.79, or 95.6% over the estimate.

Salvage on temporary units and relay equipment not included in estimate	$41,256
Salvage included in estimate for call circuit keys	18,278
Difference	$22,978

Salvage (7-R).

Salvage on repaired relays, amounting to $693.74 was not included in the estimate as it was expected that this would be covered by a routine estimate.

R. HARRIS,
Equipment Engineer.

GEH/RSH

EXECUTIVE

ILLINOIS BELL TELEPHONE COMPANY

AUTHORIZATION, ESTIMATE NO. C-25168
Dept. No. E-415

Title: Central Office Equipment, Automatic Listening Straightforward Trunking Equipt., Various Chicago Offices.
Date: July 16, 1925. Illinois, State.

Fixed Capital Accounts:								
Gross Additions	$2,508,731	Plant Displaced	$ 587,932				Net Additions	$1,920,799
Reserves:				Salvage	$ 24,024		Net	$ 599,873
Removing	$ 35,965	Plant		Salvage	$		Net	$
Ex. Repairs		Displaced	$ 587,932				Net to Reserves	$
Wiring Gain and Loss		Wiring Loss	$	Wiring Gain	$		Net	$
Gross Expenditure:	$2,544,696			Salvage & Wiring Gain	$ 24,024		Net Requirements	$2,520,672
Maintenance: (To be expended in addition to the above)								
Gross	$ 30,891			Salvage	$		Net	$ 30,891

Work to be Started about October, 1925 and Completed about December, 1926.

This estimate provides for the installation of automatic listening straightforward trunking equipment in 28 residence offices in Chicago with the necessary associated outgoing trunk equipment in the Loop offices. This estimate also covers the removal of call circuit keys and associated equipment from the subscribers' switchboards in these offices.

This additional equipment covers the conversion of approximately 1,000 trunk positions in accordance with traffic recommendation issued for each individual office by the Traffic Engineers.

Straightforward trunking permits increasing "B" operators' loads from 55 to 75%, depending on the size and number of trunk groups to be handled. This increase in "B" operators' loads through this method of operation involves an operating saving of approximately $1,080.000 in the offices covered by this estimate. The annual charges on the increased investment amount to approximately $330,000, with a resulting net saving through this method of operation of approximately $750,000.

This method of operation has been on trial in Boston, Providence, New York City and Richmond, and the estimated loads are as determined by the A. T. and T. Company from these trials. In addition to operating savings, the trials also indicate a reduction in errors through the elimination of call circuits.

Approved:

W. A. Kurtz, Chief Engineer. 7-16-25.

F. O. Hales, Vice-Pres. and Gen'l Mgr., 7-17-25.

W. R. Abbott, President, 7-17-25.

Board of Directors by:

E. G. Drew, Secretary, July 22, 1925.

Dept. No. E-415.

All equipment and a major portion of the labor will be furnished by the Western Electric Company in accordance with Illinois Bell Telephone Company specifications.

Our present schedule with the Western Electric Company calls for shipping date of October, 1925, for the first offices and a completion date for the entire project in December, 1926. The Western Electric Company are endeavoring to better the completion date.

An estimated ependiture of $75,000, which will be charged to Code 7-M covering a complete rearrangement of the jumpers on approximately 50,000 incoming trunks will be correlated with this estimate.

Approximately $ 282,941 to be spent in 1925
Balance, or 2,152,128 to be spent in 1926
12,215 to be charged to Interest During Const. in 1925
61,447 to be charged to Interest During Const. in 1926

COMMISSION'S EXHIBIT 31.

ILLINOIS BELL TELEPHONE COMPANY—CITY OF CHICAGO

SUMMARY OF MATERIALS PURCHASED FROM THE WESTERN ELECTRIC COMPANY AND CHARGED TO ACCT. 7R, "REPAIRS TO CENTRAL OFFICE TELEPHONE EQUIPMENT," DURING THE MONTH OF OCTOBER, 1921

Material	Number of Items	Amount
Cords with Plugs	7,323	$ 8,694.00
Cords without Plugs	5,999	4,954.79
Plugs	8,654	5,864.05
Fuses	37,361	2,534.18
Coils	9,665	1,214.15
Lamps	2,300	924.00
Roller Receiving Valve for Pneumatic Tube System, Comp. (Job)	1	850.00
Relays	353	626.26
Electric Clocks	33	372.90
Key Plungers	968	222.90
Jacks	1,040	222.00
Message Registers	43	208.55
Plug Shells	500	183.70
Sleeve Springs	1,000	175.00
Transmitter Attachments	3,000	165.00
Breast Plates	200	160.56
D. S. Handles	130	130.00
Keys	53	106.97
Key Buttons	1,117	105.93
Plug Seats	1,586	76.86
Carbon Brushes	346	50.98
Miscellaneous Material	.....	1,901.30
Total		$29,744.08

COMMISSION'S EXHIBIT 31A.

ILLINOIS BELL TELEPHONE COMPANY—CITY OF CHICAGO

SUMMARY OF MATERIALS REMOVED FROM PLANT RETURNED TO THE WESTERN ELECTRIC COMPANY AND CREDITED TO ACCT. 7R, "REPAIRS TO CENTRAL OFFICE TELEPHONE EQUIPMENT," DURING THE MONTH OF OCTOBER, 1921

Material	Number of Items	Amount
Cords without Plugs	25	$ .35
Plugs	4678	541.09
Fuses	15681	928.53
Coils	244	143.59
Lamps	1278	271.33
Relays	326	205.44
Electric Clocks	16	180.80
Key Plungers	2313	121.01
Jacks	56	4.26
Message Registers	23	1.07
Keys	11	2.96
Miscellaneous Material	....	54.55
Total		$2,454.98

COMMISSION'S EXHIBIT 32.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION

SUMMARY OF MATERIALS PURCHASED FROM THE WESTERN ELECTRIC COMPANY AND CHARGED TO ACCOUNT 18-R, "REPAIRS TO STATION APPARATUS," DURING THE MONTH OF OCTOBER, 1921

Material	Number Items	Amount
Desk Stands (with cords)	1,084	$ 4,901.27
Subscribers' Sets (excluding induction coils)	191	894.99
Coin Collectors	230	1,971.00
Receivers	9	32.85
Transmitters	5	24.25
Standard Instruments Assembled:		
Excluding Induction Coils	14	183.35
Including Induction Coils	4	29.89
Cords (various lengths)	13,053	7,291.12
Ringers	44	64.84
Buzzers	67	92.35
Coils	1,689	630.51
Mouthpieces	13,000	604.48
Receiver Shells	1,703	704.53
Felt Bases	1,550	542.50
Desk Stand Handles	1,600	816.00
Miscellaneous	.....	22,845.72
Total		$41,629.65

Commission's Exhibit 32A.

ILLINOIS BELL TELEPHONE COMPANY—CITY OF CHICAGO

SUMMARY OF MATERIALS REMOVED FROM PLANT RETURNED TO THE WESTERN ELECTRIC COMPANY AND CREDITED TO ACCT. 18-R, "REPAIRS TO STATION EQUIPMENT," DURING THE MONTH OF OCTOBER, 1921

Material	Number of Items	Amount
Desk Stands with cords	1,036	$ 4,514.65
Sub Sets (excluding induction coils)	51	207.92
Coin Collectors	270	1,374.43
Cords (various lengths)	525 s	6.08
Ringers	94	48.06
Buzzers	54	42.62
Coils	880	132.77
Mouthpieces	5,616	260.58
Receiver Shells	6,507	2,601.95
Receiver Ear Pieces	1,722	354.90
Felt Bases	690	257.25
Desk Stand Handles	847	405.46
Miscellaneous		1,826.63
Total		$12,123.30

Commission's Exhibit 33.

AN ANALYSIS OF THE MISCELLANEOUS ITEM OF $22,845.72 INCLUDED IN THE CHARGES TO ACCOUNT, 18R, "REPAIRING OF STATION APPARATUS" IS LARGELY COMPOSED OF THE FOLLOWING:

Repairing Coin Collectors, approximately	$ 1,940.00
Repairing Subscribers' Sets, approximately	1,780.00
Rebraiding Cords, approximately	8,823.00
Protector Blocks, approximately	4,760.00
Receiver Caps and Head Bands, approximately	855.00
Desk Stand Bases, approximately	257.00
Locks, approximately	230.00
Blank Brass Bases, approximately	221.00
Repair Ringers, approximately	203.00
Resistances, approximately	198.00
Lamps, approximately	140.00
Gongs, approximately	154.00
Condensers, approximately	125.00
Resistance Coils, approximately	45.00
Total	$19,731.00

Commission's Exhibit 34.

ILLINOIS BELL TELEPHONE COMPANY—CITY OF CHICAGO

SUMMARY OF MATERIALS PURCHASED FROM THE WESTERN ELECTRIC COMPANY AND CHARGED TO ACCOUNT 58-R, "REPAIRS TO PRIVATE BRANCH EXCHANGES," DURING THE MONTH OF OCTOBER, 1921

Material	Number of Items	Amount
Lamps	295	$ 250.48
Fuses, various kinds	1,688	68.14
Coin Collector Locks, 7A	3	1.65
Subscribers' Sets, 553B	1	5.60
End Plates, Type BT	500	150.16
Couples, Type BT	300	143.32
Hydrometers	6	3.40
Cords, various lengths	2,043	1,234.54
Plugs, various kinds	1,761	630.16
Jack Spaces, 101A	500	100.00
Relays, various kinds	120	236.55
Miscellaneous	.....	1,550.37
Total		$4,374.37

Commission's Exhibit 34A.

ILLINOIS BELL TELEPHONE COMPANY—CITY OF CHICAGO

SUMMARY OF MATERIALS REMOVED FROM PLANT RETURNED TO THE WESTERN ELECTRIC COMPANY AND CREDITED TO ACCT. 58R, "REPAIRS TO PRIVATE BRANCH EXCHANGES," DURING THE MONTH OF OCTOBER, 1921

Material	Number of Items	Amount
Lamps	470	$ 107.45
Fuses, various kinds	349	24.77
Plugs	1,454	98.95
Relays, various kinds	177	303.74
Condensers	522	92.78
Jacks	531	222.46
Lamp Sockets	181	44.91
Key Levers	44	20.68
Buzzers	18	22.55
Coils	43	24.38
Keys	86	88.36
Miscellaneous		406.25
Total		$1,457.28

Commission's Exhibit 35.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION
MAINTENANCE AND DEPRECIATION EXPENSES AND GROSS ADDITIONS AND RETIREMENTS OF FIXED CAPITAL
Twelve months ended December 31, 1923

1923	Maintenance Expenses	Depreciation	Total Maintenance and Depreciation	Fixed Capital	
				Gross Additions	Retirements
January	$ 465,925	$ 332,060	$ 797,985	$ 863,083	$ 304,112
February	414,372	334,689	749,061	987,239	190,867
March	432,707	338,656	771,363	1,130,248	278,281
April	506,290	342,744	849,034	1,496,789	320,371
May	521,093	346,581	867,674	6,614,651	458,031
June	459,175	413,350	872,525	1,025,470	627,620
July	473,877	387,047	860,924	831,445	284,677
August	452,451	389,299	841,750	735,856	245,914
September	503,100	391,599	894,699	1,024,798	252,202
October	579,505	395,026	974,531	1,178,357	344,636
November	556,146	398,197	954,343	2,252,762	346,458
December	537,092	411,706	948,798	285,330	315,256
Total	$ 5,901,733	$ 4,480,954	$10,382,687	$18,426,028	$ 3,968,425

Commission's Exhibit 36.

ILLINOIS BELL TELEPHONE COMPANY—CHICAGO DIVISION
SUMMARY OF DEPRECIATION RESERVE FOR YEARS 1911 TO 1925, INCLUSIVE, WITH ADJUSTMENTS IN YEARS 1921 TO 1925 BASED ON PUBLIC UTILITIES COMMISSION'S ALLOWANCE FOR EXPENSE OF DEPRECIATION (ACCOUNT 608) OF $2,000,000. PLUS 4% ON NET ADDITIONS

Year Ended Dec. 31	Amount Reserved for Depreciation		Charges to Depreciation Reserve		Balance in Depreciation Reserve December 31	
	Amount	Per Cent of Plant	Amount	Per Cent of Plant	Amount	Per Cent of Plant
	(1)	(2)	(3)	(4)	(5)	(6)
1911	$1,446,985	4.99	$ 348,301	1.20	$4,384,828	15.11
1912	1,722,946	5.25	901,692	2.75	5,206,082	15.85
1913	2,051,072	5.41	1,041,264	2.75	6,215,890	16.41
1914	2,613,552	5.98	1,456,801	3.33	7,372,641	16.87
1915	2,664,271	5.58	1,600,286	3.35	8,436,626	17.67
1916	2,886,680	5.53	1,336,186	2.56	9,987,120	19.13
1917	3,222,376	5.53	1,292,110	2.22	11,917,386	20.46
1918	3,160,295	5.01	581,557	.92	14,496,124	22.98
1919	3,464,709	5.17	610,809	.91	17,350,024	25.90
1920	3,497,006	4.83	547,417	.76	20,299,613	28.02
1921	2,191,203	2.83	611,572	.79	21,879,244	28.27
1922	2,444,062	2.85	894,084	1.04	23,429,222	27.34
1923	3,094,833	3.09	1,509,877	1.51	25,014,178	24.98
1924	3,442,994	3.10	2,151,611	1.94	26,305,561	23.70
1925	3,956,617	3.13	1,932,472	1.53	28,329,706	22.40

COMMISSION'S EXHIBIT 37.

Extract from Interstate Commerce Commission's Annual Report to Congress for 1910, page 32.

"There are from 25,000 to 30,000 telephone companies which make provision for interstate communication, and the Commission is in doubt as to whether it was the intent of Congress to place all these companies under its supervision and control."

COMMISSION'S EXHIBIT 38.

Extracts from Interstate Commerce Commission's Annual Report to Congress for 191 , page 37.

"It is obvious, however, that accounting rules and regulations, no matter how complete, constitute but the first step toward the attainment of uniformity in accounting methods and practices, and will not in and of themselves attain that end. If the rules constituted the only deterrent, the principle of uniformity could be defeated by the carriers through deliberate disregard of them or carelessness or lack of understanding in their application. Even in the case of carriers that endeavor faithfully to comply with the classifications, different accounting officers may construe the rules differently and the principle of uniformity thereby be impaired. Only through adequate supervision may there be assurance of uniformity of accounting in accordance with the law. Accordingly it is essential to the enforcement of the regulations that examinations of accounts be made in the carriers' offices. Such examinations bring to light many incorrect interpretations and applications of the rules and result in their discontinuance or correction."

"The reports of the steam roads in response to the circulars pertaining to depreciation of equipment indicated a great diversity in the rates of depreciation applied, and a misunderstanding in many cases of the accounting rules in that particular."

COMMISSION'S EXHIBIT 39.

Extract from Interstate Commerce Commission's Annual Report to Congress for 1919, page 24.

"By proclamation of July 22, 1928, under joint resolution of Congress of July 16, 1918, the President took possession and assumed control and operation, through the Postmaster General, effective midnight July 31, 1918, of 'every telegraph and telephone system and every part thereof within the jurisdiction of the United States.' On July 31, 1919, these properties were returned to their owners. The joint resolution of Congress did not reserve any of the regulatory powers conferred upon us and during the year of Federal control of these companies we did not exercise any regulatory powers over their rates, charges, or practices."

COMMISSION'S EXHIBIT 40.

Extract from Interstate Commerce Commission's Annual Report to Congress for 1921, page 26.

"During the year work was begun on the revision of our accounting regulations. Those now in effect were last revised as of July 1, 1914. A further revision is imperative to make them responsive to requirements imposed by new legislation and to improve them further in the light of the experience gained in their practical application during the past 7 years."

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION.

ILLINOIS BELL TELEPHONE COMPANY, Plaintiff, vs. P. H. MOYNIHAN, HAL W. TROVILLION, WILLIAM J. SMITH, ALEX J. JOHNSON, J. PAUL KUHN, JAMES R. CLARK and DAN JACKSON, the Persons Constituting the Illinois Commerce Commission of the State of Illinois, and OSCAR E. CARLSTROM, Attorney-General of the State of Illinois, Defendants, and CITY OF CHICAGO, a Municipal Corporation, Intervenor.	In Equity No. 3746

Exhibits of City of Chicago, Intervenor, Excluded by Order of Court.

SAMUEL A. ETTELSON,
Corporation Counsel, City of Chicago.
HAIGHT, ADCOCK & BANNING,
BENJAMIN F. GOLDSTEIN,
Attorneys for City of Chicago, Intervenor.

GEORGE I. HAIGHT,
EDMUND D. ADCOCK,
WM. H. HAIGHT,
BENJAMIN F. GOLDSTEIN,
Of Counsel.

OSCAR E. CARLSTROM,
Attorney General of Illinois,
Attorney for Illinois Commerce Commission,
WM. C. CLAUSEN,
Assistant Attorney General,
Of Counsel.

BARNARD & MILLER PRINT, CHICAGO

INDEX TO EXHIBITS.

Exhibit No.	PAGE
78	3
83	7
84	11
84A	12
86	13
87	21
88	30
89	45
124	48
125	139
144	143
157	154
157a	156
157b	157
157c	158
157d	160
157e	161
157f	162
157g	165
157h	166
157i	169
157j	172

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS,

EASTERN DIVISION.

ILLINOIS BELL TELEPHONE COMPANY,
Plaintiff,

vs.

P. H. MOYNIHAN, HAL W. TROVILLION, WILLIAM J. SMITH, ALEX J. JOHNSON, J. PAUL KUHN, JAMES R. CLARK and DAN JACKSON, the Persons Constituting the Illinois Commerce Commission of the State of Illinois, and OSCAR E. CARLSTROM, Attorney-General of the State of Illinois,
Defendants,

and CITY OF CHICAGO, a Municipal Corporation,
Intervenor.

} In Equity No. 3746

Exhibits of City of Chicago, Intervenor, Excluded by Order of Court.

City Exhibit 78.

Placita—Superior Court of Cook County (Decree) Form 89
United States of America.

State of Illinois, }
County of Cook. } ss.

Pleas, before the Honorable William E. Dever, one of the Judges of the Superior Court of Cook County, in the State of Illinois, holding a branch Court of Said Court, at a regular term of said Superior Court of Cook County, begun and holden at the Court House, in the City of Chicago, in said County, and State, on the first Monday, being the third day of February, in the year of our Lord one thousand nine hundred and thirteen, and of the Independence of the United States of America, the one hundred and thirty-seventh.

Present: The Honorable William E. Dever, Judge of the Superior Court of Cook County; Maclay Hoyne, State's Attorney; Michael Zimmer, Sheriff of Cook County.

Attest: Richard J. McGrath, Clerk.

Be it remembered that heretofore, to-wit: on the 8th day of February in the year of our Lord one thousand nine hundred and thirteen, the same being one of the days of the February Term of the Superior Court of Cook County the following among other proceedings were had in said Court and entered of record, to-wit:

William A. Read, *et al.*,
vs.
Central Union Telephone Co., *et al* } Bill 299689.

This cause coming on to be heard upon the motion of the Complainants this day made herein for a preliminary injunction as prayed in their Bill of Complaint,

It appearing to the Court that there is danger of irreparable injury and loss to Complainants from any delay in the granting of a restraining order or preliminary injunction maintaining the existing situation until said motion can be fully heard; and the Court having jurisdiction, and being fully advised in the premises It is hereby Ordered and Decreed

that said defendants, Central Union Telephone Company, Chicago Telephone Company, American Telephone and Telegraph Company, Bernard E. Sunny, Theodore N. Vail, Union N. Bethell, L. G. Richardson, Alonzo Burt, Charles E. Mosley, B. S. Garvey, H. F. Hill, John Sherwin, C. H. Brownwell, E. E. Jackson, L. N. Whitney and W. I. Mizner and each of them, and all of the Officers, directors, servants, employees, agents and Attorneys of each of them, and all persons now or hereafter conspiring or confederating with said defendants, or any of them, or with their officers, directors, servants, employed, Agents or Attorneys be and they are hereby restrained and enjoined from voting or attempting to vote or permitting to be voted any or all of the stock in said Central Union Telephone Company owned by said American Telephone and Telegraph Company, whether held in its name or in the name of some individual or corporation acting on its behalf at the Special meeting of the Share Holders of said Central Union Telephone Company, called to be held on February 11, 1913, or at any adjournment or adjournments thereof, or at any other regular or special meeting of said stock-holders hereafter to be held and from holding or attempting to hold said Special Meeting of the Stockholders called to be held on February 11, 1913, or any adjournment or adjournments of said meeting, and from taking or attempting to take any action as officers, directors, or stock-holders, of said Central Union Telephone Company, or otherwise making, authorizing, approving or in any way confirming any sale of the assets of said Central Union Telephone Company in whole or in part to said Chicago Telephone Company or to any other Corporation, firm or individual, controlled by or affiliated with said American Telephone and Telegraph Company, or to any other corporation, firm or individual whatsoever, and from dissipating, concealing or secreting any of the assets or effects of said Central Union Telephone Company; and that said defendants, American Telephone and Telegraph Company and Chicago Telephone Company, their officers, directors, servants, employees, Agents and Attorneys, or any one conspiring with them, or any of them, be and they hereby are restrained and enjoined from enforcing or seeking to enforce by legal or equitable proceedings, or otherwise, the indebtedness of some Thirty-two Million Seven Hundred and Twenty-seven Thousand ($32,727,000) Dollars which it is alleged in said Bill of Complaint as claimed by said American Telephone and Telegraph Company and said Chicago Tele-

phone Company to be owing from said Central Union Telegraph Company and from transferring, assigning, pledging or in any way disposing of any demand notes, or other obligation or evidences of indebtedness, made by said Central Union Telephone Company or given for or purporting to represent said alleged indebtedness of said Central Union Telephone Company; and that said American Telephone and Telegraph Company and all other defendants herein, be and they are hereby restrained and enjoined from transferring or otherwise disposing of the stock in said Central Union Telephone Company owned by said American Telephone and Telegraph Company as aforesaid and from permitting said stock or any of said stock to be so transferred or disposed of; and said defendants and each of them are hereby ordered and directed faithfully and fully to observe this order and not to do or commit any of the acts above restrained until the further order of this Court.

And an Injunction bond in the penal sum of Twenty-five Hundred ($2500) Dollars with Maryland *Causalty* Company as Surety having been presented to the Court, said bond is hereby approved and accepted.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, M. S. Szymczak, Clerk of the Superior Court of Cook County, in and for the State of Illinois, and the keeper of the records, files and seals thereof, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain Decree made and entered of record in said court in a certain cause lately pending in said Court on the Chancery side thereof, wherein William A. Read *et al,* were complainants and Central Union Telephone Company, *et al,* were defendants.

In Witness Whereof, I have hereunto set my hand, and affixed the seal of said Court, at Chicago, this 22nd day of April, A. D. 1929.

M. S. SZYMCZAK,

(Seal) *Clerk.*

UNITED STATES OF AMERICA.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, M. S. Szymczak, Clerk of the Superior Court of Cook County, in and for said County, do Hereby Certify that Jacob H. Hopkins, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was, at the time of signing and sealing the same, the Chief Justice of Said Superior Court of Cook County, and was duly elected, commissioned and qualified to office: that full faith and credit are, and of right ought to be given to all his official acts as such, in all Courts of Record in the United States and elsewhere, and that his attestation is in due form of law and by the proper officer.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Court, at the City of Chicago, in said County, this 22nd day of April, A. D. 1929.

M. S. SZYMCZAK,

(Seal) *Clerk.*

UNITED STATES OF AMERICA.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

I, Jacob H. Hopkins, Chief Justice of the Superior Court of Cook County, in and for said County, do Hereby Certify that M. S. Szymczak, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was, at the time of signing and sealing the same, the Clerk of Said Superior Court of Cook County, and keeper of the Seal and records thereof, duly elected, commissioned and qualified to office; that full faith and credit are, and of right ought to be given to all his official acts as such, in all Courts of Record in the United States and elsewhere, and that his attestatien is in due form of law and by the proper officer.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at the City of Chicago, in said County, this 22nd day of April, A. D. 1929.

JACOB H. HOPKINS,

Chief Justice of the Superior Court

(Seal) *of Cook County.*

CITY'S EXHIBIT 83.

ILLINOIS BELL TELEPHONE COMPANY.

Date

To

I hereby certify that the following is a true copy of resolution duly adopted by the Board of Directors of the Illinois Bell Telephone Company at a regular meeting duly called and held on October 27, 1920 at which meeting a quorum was present.

.....

Secretary.

The President reported that the negotiations referred to at the meeting of the Board in September, for the purchase of the telephone property of the Central Union Telephone Company in Illinois, had been completed and he submitted the following statement covering the price for the property and the expected net revenue to the Chicago Company.

Sale price, Illinois Central Union Property, December 31, 1919:

Depreciable property	$14,639,776	
Land, general equipment, material and supplies, construction in process and miscellaneous investments	860,224	
Total sale price, December 31, 1919		$15,500,000
Net additions, December 31, 1919 to date of transfer		300,000
Total at date of transfer		$15,800,000
Deduct bonds of Eastern Illinois (Kankakee) Independent Telephone Company, Rockford Home Telephone Company and Home Telephone Company of Champaign County, Illinois, assumed by Chicago Telephone Company		520,000
Total sale price		$15,280,000

Annual amount available for depreciation and return on investment, based on the first 8 months of 1920 taking account of rate increased secured up to and including Sept. 1, 1920, not reflected in the figures for the first 8 months of 1920.....		$ 1,800,000	
Deduct depreciation, 5% on $14,939,776	$746,989		
Deduct interest on bonds assumed	28,000	774,989	
Balance available for return on investment			1,025,011
Deduct 3% on purchase price of $15,280,000			764,000
Balance net profit			$ 261,011

This purchase does not include stocks and bonds owned by the Central Union Company in local companies in Danville, Ottawa, DeKalb, Gibson, Watseka, etc. They may be negotiated for at some later period.

The President presented the following draft of an agreement to cover the proposed purchase of Central Union Telephone Company properties and recommended its approval:

"This Agreement, made and entered into on this ..... day of ....., 1920, by and between the Central Union Telephone Company, (hereinafter for convenience designated as "Central Union Company"), and the Chicago Telephone Company (hereinafter for convenience designated as the "Chicago Company"), both of said corporations being incorporated under the laws of the State of Illinois.

WILL WITNESS:

That upon the terms and conditions hereinafter set out, the Central Union Company has agreed to sell to the Chicago Company, and the Chicago Company has agreed to purchase from the Central Union Company, the following described property, to-wit:

1. (a) All of the telephone property of the Central Union Company located within the State of Illinois, including all real estate, buildings, central office and substation equipment and

apparatus, pole lines, conduits, wires, cables, rights of way, licenses, franchises, (except the franchise of the Central Union Company to be a corporation), all leases, materials and supplies on hand, furniture and fixtures, tools, and all other property, whether of the classes of property above described or not, constituting a part of or used or useful in the operation of the Central Union Company's telephone system in the State of Illinois as the same exists at the date of the actual transfer of said properties, and all contracts relating to the construction, maintenance or operation of said properties, and all rights of the Central Union Company for the State of Illinois under its license contract with the American Telephone and Telegraph Company.

(b) Such of the bills and accounts receivable arising out of the operation of said Illinois property to be sold as the President of the Central Union Company may deem advisable.

2. The consideration to be paid by the Chicago Company to the Central Union Company for said properties shall be as follows:

(a) For the property described in clause 1 (a) above, the sum of Fifteen Million Five Hundred Thousand Dollars ($15,500,000) plus the actual cost as shown by the books of the Central Union Company of any net additions made to said property subsequent to December 31, 1919 and up to the date of the actual transfer of the property.

Said property shall be conveyed subject to the liens of the following bonds:

Description of Bonds	Amount
First Mortgage 5% Bonds Eastern Illinois Independent Telephone Company, due February 1, 1924	$120,000
First Mortgage 6% Gold Bonds Rockford Home Telephone Company, due February 1, 1922	200,000
First Mortgage 5% Gold Bonds Home Telephone Company of Champaign County, Illinois, due April 1, 1926	200,000

The Chicago Company agrees to assume the payment of the principal and interest of all of said bonds, and the face value thereof, plus accrued interest to said date of transfer, shall be deducted from said purchase price.

(b) For the bills and accounts receivable described in clause 1 (b) above, their face value, their prompt and full payment to be guaranteed by the Central Union Company.

3. The consideration for said properties described in clauses 1 (a) and 1 (b) above shall be paid in notes of the Chicago Company bearing date as of said date of transfer, of the aggregate face value of the consideration named in clauses 2 (a) and 2 (b) above, maturing December 1, 1923, and bearing interest at the rate of five per cent (5%) per annum, payable semi-annually.

4. The properties hereinabove described shall be conveyed to the Chicago Company free and clear of all accrued liabilities, liens and encumbrances, except as herein provided; and if any such items not herein excepted exist at said date of transfer, they shall be adjusted in connection with the payment of the purchase price.

5. The Chicago Company shall assume and carry out all existing contracts of the Central Union Company which are to be transferred under this contract, including its contracts with connecting companies.

6. Accounts with patrons shall be adjusted between the companies as of said date of transfer of said properties, upon the basis of allowing to the Central Union Company credit for services rendered by it and charging it with amounts collected for services to be rendered by the Chicago Company.

7. Prepayments and other deferred charges and taxes, on account of the property sold shall be prorated between the Companies as of said date of transfer of the properties.

8. This agreement is subject to the necessary approval of the Public Utilities Commission of the State of Illinois, and and is also subject to such other approval by public authorities as either party hereto may deem necessary, and further shall not become effective until all necessary proceedings of directors and stockholders have been had.

In Witness Whereof, the parties hereto have hereunto signed this agreement by the hands of their proper officers, the day and year first above written.

CENTRAL UNION TELEPHONE COMPANY.

By.....

President.

CHICAGO TELEPHONE COMPANY,

By.....

President.

Upon motion duly supported, the following resolution was unanimously adopted:

Whereas, It is to the interest of this Company to purchase certain properties from the Central Union Telephone Company, and

Whereas, An Agreement, setting forth the terms of such purchase, has been prepared and is now submitted to this Board;

Therefore, Be It Resolved: That the officers of this Company, be and they are hereby authorized and directed:—

1. To execute and deliver said agreement on behalf of this Company substantially in the form now presented to this Board, with such modifications as to detail as may be approved by the President of this Company.
2. To enter into such contract or contracts as may be necessary to transfer to this Company the rights now held by Central Union Telephone Company under its license contract with American Telephone and Telegraph Company in so far as they relate to the State of Illinois.
3. To make on behalf of this Company all necessary applications to public service or utility commissions and other public authorities in connection with said purchase and transfer, and to execute, deliver and accept all deeds, bills-of-sale, contracts, and other documents and papers, and to do all other acts necessary or convenient to accomplish the purposes contemplated by this resolution.

CITY'S EXHIBIT 84.

ILLINOIS BELL TELEPHONE COMPANY.

Date

To

I hereby certify that the following is a true copy of resolution duly adopted by the Stockholders of the Illinois Bell Telephone Company at a regular annual meeting duly called and held on February 12, 1913 at which meeting a quorum was present.

.....

Secretary.

The Chair announced that inasmuch as Stockholders of the Central Union Telephone Company had not met on February 11th, and had not passed resolutions authorizing the sale of its property in Illinois, that the consideration of the three special matters of business presented in the call would have to be deferred.

CITY'S EXHIBIT 84-A.

ILLINOIS BELL TELEPHONE COMPANY.

Date

To

I hereby certify that the following is a true copy of resolution duly adopted by the Board of Directors of the Illinois Bell Telephone Company at a special meeting duly called and held on January 8, 1913 at which meeting a quorum was present.

.....

Secretary.

A special meeting of the Board of Directors of Chicago Telephone Company was held at 2 o'clock, Wednesday, January 8, 1913, in the Directors' room, Telephone Building, Chicago, pursuant to notice duly given.

President B. E. Sunny presided and the Secretary was in attendance.

The Directors present were:

Alonzo Burt,
D. M. Cummings,
W. H. Miner,
J. J. Mitchell,
A. A. Sprague and
B. E. Sunny,

a quorum being present.

The minutes of the last meeting of the Directors held on December 26, 1912, were read and approved.

The President stated that the object for which the meeting was called was to consider the matter of presenting to the Stockholders the question of purchasing the property of the Central Union Telephone Company in Illinois; of increasing the authorized capital stock, and of changing the name of the corporation.

On motion, duly supported, the following resolution was unanimously adopted:

RESOLVED: That at the annual meeting of the Chicago Telephone Company to be held on Wednesday, the 12th day of

February, 1913, this Board shall submit to a vote of the Stockholders the question of increasing the authorized capital stock of the corporation, so that after such action it will be the amount of Fifty Million Dollars ($50,000,000.00), consisting of Five Hundred Thousand (500,000) shares of the par value of One Hundred Dollars ($100) each; and further to submit to a vote of such stockholders the question of changing the name of the corporation, and of purchasing the property of the Central Union Telephone Company within the State of Illinois.

On motion, the meeting adjourned.

.....

Secretary.

Approved:

.....

President.

(CUT)

Holders of Rights applying for Stock at the American Telephone and Telegraph Company headquarters

CITY EXHIBIT 86.

BELL TELEPHONE QUARTERLY

A MEDIUM OF SUGGESTION
AND A RECORD OF PROGRESS

Published quarterly for the Bell System by the American Telephone and Telegraph Company

Subscription, $1.50 per year, in United States and Canada; single copies, 50 cents

Address all communications to

INFORMATION DEPARTMENT
AMERICAN TELEPHONE AND TELEGRAPH COMPANY
195 Broadway, New York

Vol. III OCTOBER, 1924 No. 4

A PUBLICLY OWNED INSTITUTION

From the address of Mr. W. S. Gifford before the Bell System Educational Conference in New York on August, 18, 1924

The Bell System is made up of a number of associated telephone companies. In effect, you might consider it as one institution and one company. Due, however, to state laws and different local conditions in the United States, the business is carried on through corporate organizations comprising a parent company, which is the American Telephone and Telegraph Company, a number of associated companies, which do the telephone operating in different sections of the country, and the Western Electric Company, which manufactures telephone equipment and is the supply department of the entire system.

Obviously, our job is to furnish telephone service to the people of the United States. In fact, we are, perhaps, the

only institution which by itself has the responsibility of furnishing a nation-wide service of great magnitude. The responsibility for furnishing nation-wide telephone service rests upon us. This is discharged through associated operating companies such as the New York Telephone Company, the New England Telephone Company, and the Bell Telephone Company of Pennsylvania; and the local and regional services of these companies are connected by the long distance lines of the American Telephone and Telegraph Company. This makes it possible for a telephine subscriber of one company to talk to any of the subscribers of any of the other operating companies. In this way, physically, national telephone service is secured and every telephone is connected with practically every other telephone in the United States.

Now, we do not actually operate, or own, all the telephone business of the United States, although we own two-thirds of it. Substantially the remaining third is owned locally by what we call connecting companies; that is, companies in which we have no financial interest but which connect with our system so that the subscribers of one company can talk to those of any other Bell company anywhere in the country.

There are, it is true, a few places remaining in which there are competing companies. That is, there are a few cities, not many, where there are two telephone systems and where, in order to get complete service, one must subscribe to the service of both companies. It has been recognized by public authorities, and by the public, that two telephone systems are not advantageous to the user; and the process of elimination of competitive situations has been going on and is still going on, and is nearly completed. That means that we have a responsibility not only for a nation-wide service, but also for carrying it on under conditions which are not in the ordinary sense of the word, competitive. So we must, if we are to progress, constantly be on the alert to give good service and to give it at a reasonable cost.

Another way of looking at the furnishing of telephone service would be to say there are three main branches. There is the operating end of the business, such as the operation of the New York Telephone Company; there is the manufacturing of the equipment for the telephone business, which for the Bell System is handled by the Western Electric Company; and over and above that there is the central administration and the development of the progress of the art, which is undertaken by the American Telephone and Telegraph Company.

THE PROBLEMS ARE LARGE.

Now, the problems with which we deal involve large figures. I do not intend to give you a lot of dry statistics, but I think you ought to know a few of the figures. The total property of the Bell Telephone System amounts to something like two and a half billion dollars. The number of telephones to which we furnish telephone service directly is somewhere between ten and eleven million. In addition, we furnish service indirectly to over four million connecting company telephones. Thus we have some two and a half billion dollars of property devoted to furnishing service through our fifteen million telephones. We have, including the Western Electric Company which is almost entirely engaged in the manufacture and supply of telephone equipment, about three hundred and forty thousand employees, a fairly good sized army engaged in furnishing telephone service.

Moreover, the telephone business differs from a great many other business enterprises in that it grows constantly both in times of business depression and in times of great business activity. It never stops growing. It grows a little faster during times of marked business activity than it does during times of marked business depressions, but it grows all the time. And, the growth of the telephone business requires a constant increase in physical equipment.

It is not exactly like a grocery store which can take care, we will say, of fifty customers, or of one hundred and fifty, or even two hundred and fifty, if the business grows, without building a new store. With us, for almost every new subscriber we take on, we must build a proportional amount of new plant.

It is true that a switchboard will last for a while until the growth fills it up, but when someone who is not a telephone subscriber applies for a telephone, we must wire his house and install his instrument, connect it with the switchboard and, in effect, we must add a pro rata part of a switchboard in order to take care of him. The result is that our construction program, our program for the use of physical materials—building physical plant—runs into very large figures; probably larger figures than that of any other institution in the world.

This year, for instance, we are building a plant that will cost $360,000,000. That is our gross construction program

for 1924. Some of this is for reconstruction, that is, for replacing equipment that is worn out or is inadequate to serve the needs, but our net construction program this year will involve about $285,000,000.

Careful Planning Necessary.

In the planning and development of this construction work, it is quite obvious that the greatest care must be taken that we always adopt the best, that we make no mistakes in our plans, and that we engineer the entire program on sound lines. This is one of the reasons why we have to have so many technical men in this business. The business is a technical and intricate one from the standpoint of construction and operation, and the figures and volume of work done are so large that it provides almost unlimited opportunity for men trained in technical understanding of the electrical art—telephone art, particularly.

We add about seven to eight hundred thousand telephones a year, net, to our system. That is approximately the present rate of growth.

The building of telephone plant lies particularly in the field of technical experts, but there is another problem, connected with a construction program of $360,000,000, that of raising funds to pay for it. Briefly, it means something like two hundred million dollars of new money every year brought in from investors, large and small, in order to take care of the annual capital requirements of the business. The balance of the program is met by monies obtained from earnings in the shape of depreciation reserves, which take care of the replacement end of the construction budget, and from surplus earnings or univided profits.

Our financial structure is really quite simple and easily understood. About one-third of our investment, which, as I said, is over $2,500,000,000, comes from money furnished by the stockholders in buying at par, capital stock. Approximately another third of it comes from money which we borrow usually on long term debentures or mortgage bonds, and the remainder comes from the surplus and reserves, to which I referred.

If you bear these things in mind, you will understand one of the apparent mysteries of this business, namely, how it is that with relatively small earnings on our investment, we earn with a margin and pay nine per cent dividends on our

stock. One-third of our investment, as I stated, comes from surplus and reserves, and of course, we do not have to pay any fixed charges on it. Another third comes from borrowed money on which we pay five or five and a half per cent. The other third comes from the sale of stock, and it is quite obvious that if we earn five per cent on the entire property, we earn about ten per cent on our stock. So, to pay nine per cent dividends with a margin we do not have to earn ten or eleven per cent on our investment, but because of our conservative financial set-up, considerably less than nine per cent on the property devoted to public service.

Because, therefore, for forty odd years the Bell System has never paid out all that it has earned in dividends, because it has conservatively put a small amount each year (a considerable amount over forty years) back into its properties, we are in the fortunate state of being able to keep telephone rates down to a relatively low level and still earn enough to enable us to raise this large sum of money annually, to continue to extend and keep up our business and furnish service to those who want it.

A Publicly Owned Business.

There is another set of facts of great significance, namely, that the American Telephone and Telegraph Company has about 340,000 stockholders, that some of our associated companies have over two hundred thousand preferred stockholders, and that in addition there are many hundreds of millions of bonds and debentures owned by several hundred thousand individuals and corporations. Our business is one which you may say is publicly owned.

This is one thing I had in mind when I said that business had changed a good deal in the last twenty or thirty years. The ownership has greatly widened. Nobody owns as much as one per cent of the capital stock of the American Telephone and Telegraph Company. It is not controlled or owned by a small group of wealthy people. It is owned throughout the United States by 340,000 stockholders. Therefore, we have this situation: We have an institution, an American institution, grown up under American laws, plans and ideals, which is really publicly owned, engaged in rendering a public service to the entire country without competition, under public regulation.

We are regulated, and on the whole, we have no complaint whatever, to make with our regulation. Occasionally, and it is what all of you would expect, we have some trouble with regulatory bodies; and, of course, such trouble when it arises occupies the front pages of the newspapers. But we have always welcomed regulation. I believe Mr. Vail was the first man in business to urge publicity and to welcome regulation. We still welcome it. We favor it. We recognize the necessity for it, but we believe that, in some respects, like everything else, it can be improved; and we also believe it will be.

In some parts of the country, we have been raising rates. But, if one stops to think of what has happened to the value of the dollar since the war and compare our increase rates on the basis of a sixty cent dollar with pre-war rates on the basis of a one hundred cent dollar, it will be very clear that, in fact, telephone rates on the whole have gone down.

Everything costs more than it used to cost, and the telephone business cannot live indefinitely in a given locality with a ten per cent increase in rates, when commodities have increased fifty per cent in price, wages about one hundred per cent, and the cost of living sixty per cent. The problem we have had as to rates, except in the few cases where they were inadequate to start with, has been merely the adjustment of rates to the changed value of the dollar.

Service the First Consideration.

I realize that I have made a somewhat sketchy presentation to you, and it is possible that I have not given you the picture which I wish to leave in your mind. Let me summarize what I have said in this way: Our primary incentive here is to do a good job and to render an effective public service. Of course, we must run the Bell System on a business basis. We must mantain a sound financial structure. For many reasons we must see to it that those who invest their money in the business secure a resonable return and that the system has satisfactory earnings on its investment. If this were not the case, of course, the business could not proceed—it could not attract the new capital which is necessary in part to furnish the facilities which the people are increasingly demanding. But more money than this, we have no incentive to make. It would not help the business or anybody connected with it for us to attempt to secure abnormal rates. There is no particular person or group of persons in New York or elsewhere, who in any event would be the beneficiary of such rates. As it is,

the earnings which are distributed in the form of dividends go to the 340,000 stockholders of the American Telephone and Telegraph Company and to the several hundred thousand preferred stockholders of associated companies, and these are interested in steady and reasonable returns and in having their stock rated as an investment of high order.

Furnishing ever better and more comprehensive telephone service is the prime incentive to our every day work. More truly, I think, than people outside realize or would credit, we are actuated by the same spirit of enthusiasm in discovering better methods, in rendering a service which will give public satisfaction, and in doing a job well, which animates those working in colleges or scientific institutions. We hope you will realize this fact. If you do, it will enable you to understand many things which we do here, many things which will undoubtedly be brought to your attention during your stay here.

It is our ambition to go on improving the telephone service.

It is our ambition to go on lessening the cost of telephone service. It is our ambition to have the respect and confidence of the public and of all the different members and sections of the public. We carry on scientific research on a scale that is probably not equaled by any organization in the country, or in the world. We take as much joy out of discovering new methods and being able to lessen the cost of telephone service as we would in being able to earn a little more money than our competitor, if we were running the ordinary type of competitive business.

We are, in fact, a large, democratic American institution, owned by 340,000 men and women, with 340,000 employees, and $2,500,000,000 of property, all directed toward better and cheaper telephone service for the people of the United States.

The Bell System is really a new sort of thing. It is a publicly owned, privately managed institution, and I hope that while you are here you will catch some of the enthusiasm we feel in working in it. I know we shall learn a lot from you.

It is very generous of you to give us your time to come here and help us work on one of our real problems, which is the finding of educated young men who will come in and work shoulder to shoulder with the rest of us in carrying on this great institution.

I welcome you all here. I hope you have a very successful conference and I also hope you will enjoy it and go away with feelings of good will toward us.

CITY'S EXHIBIT 87.

Bell Telephone Quarterly

NORTHWESTERN BELL TELEPHONE COMPANY.

Frank E. Randall elected Vice-President.

Entered the employ of the Bell System as general counsel, Northwestern Bell Telephone Company, Omaha, May, 1921; Vice-President, June, 1925.

H. I. Dodson appointed Chief Engineer.

Entered the employ of the Bell System as outside plant engineer, New York Telephone Company, Brooklyn, N. Y., August, 1907; district plant engineer, Buffalo, October, 1909; division plant engineer, Buffalo, July, 1914; estimate engineer, Northwestern Group, July, 1920; outside plant engineer, Northwestern Bell Telephone Company, September, 1921; chief engineer, June, 1925.

(254)

BELL TELEPHONE QUARTERLY

A MEDIUM OF SUGGESTION
AND A RECORD OF PROGRESS

Published quarterly for the Bell System by the American Telephone and Telegraph Company

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Subscription, $1.50 per year, in United States and Canada; single copies, 50 cents

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Address all communications to

INFORMATION DEPARTMENT
AMERICAN TELEPHONE AND TELEGRAPH COMPANY
195 Broadway, New York

Vol. IV OCTOBER, 1925 No. 4

THE BELL SYSTEM

From the address of Mr. Bancroft Gherardi, Vice President of the American Telephone and Telegraph Company, at the Bell System Educational Conference in Chicago, June 22, 1925

The objectives or the ideals of the Bell System may be considered to be fourfold in character. First, to give to the

people of the United States the best and most comprehensive and satisfying telephone service which can be given to them.

Second, to bring out in each of the 350,000 workers in the Bell System the best that is in him or her so that that best will be devoted to the problem of giving telephone service to these United States.

Third, to make a fair return to the more than half million people who have provided the money necessary to build the telephone plant which is essential to the rendering of the service.

Fourth, to continuously develop the art. We cannot rest satisfied with applying the telephone art as it is from time to time or as others may create it. On account of the large proporation that we are of the total industry in the United States and in the world, the obligation rests in us to develop the art in every possible way.

Consistency of Objectives.

Those four objectives or ideals are not inconsistent with each other; in fact, when properly regarded they are in entire harmony. It is sometimes thought that there is some inconsistency between treating the owners of the property fairly and making money for them on the one hand and rendering the best and most satisfying service on the other hand. Such, however, is not the case. It is not possible for a poor and ill-nourished institution of any kind to render the best service. It is not possible for an institution, the employees or workers of which are dissatisfied, to render the best service. On the other hand, it is impossible in the long run for a concern which does not render good service and improve its service intensively as opportunities offer either to make its workers happy or to make money for its owners.

What is the Bell System? In the first place the Bell System may be regarded as an institution which gives telephone service between 16,000,000 telephones in these United States. These telephones are scattered over the length and breadth of our great land, located in our greatest cities, in smaller towns, in the rural districts, everywhere throughout the United States. Of these 16,000,000 telephones, about 11,500,000 are owned and operated directly by the Bell Company, and about 4,500,000 are owned by other companies, usually operating in smaller places and known as connecting companies. In these connecting companies we usually have no financial interest,

but our system connects with theirs and through our system these local companies are tied into the national system. So that looking at the Bell System from the first point of view, it consists of 16,000,000 telephone terminals, located throughout the whole United States and capable of interconnection. These 16,000,000 telephones make telephone service available to practically every person in the United States.

Plant Requirements.

To connect the 11,000,000 Bell owned telephones together, there is a system consisting of about 40,000,000 miles of wire, 90% of which is in cables and 10% of which is open wire. The number of telephones is, of course, growing year by year; the Bell telephones now increasing at the rate of about 750,000 annually, and there is a corresponding growth in the wire mileage to connect them up.

In addition to this wire there are thousands of telephone switchboards located everywhere throughout the United States which are used to make the necessary interconnection between the wires. These switchboards vary from the largest and most complex switchboards, some of which you will see here in Chicago before this Conference is over, to the smaller and simpler switchboards necessary to meet the conditions of small communities, as well as a very large number of switchboards used to connect the toll lines extending between cities and towns.

The telephone problem is to be able to connect any one of these 16,000,000 telephones to any other one of the 16,000,000 telephones as quickly as possible and thus establish a speech channel by which an electric current conveying the speech from one station to another may find a clear and uninterruted route.

Those of you who have figured on the possibilities of permutations and combinations will appreciate what a formidable problem this interconnection necessarily is. For me to be able to step to any telephone here in this building and to take the telephone receiver off the hook and tell the operator, let us say, "Point Pleasant, New Jersey, telephone number 56," is a simple thing to do. That is all the information that operator needs to enable her to connect the telephone from which I am speaking to one of the 16,000,000 telephones in the Bell System, the one which happens to be located in my home in New Jersey about 1,000 miles away.

This is the second point of view from which the Bell System may be regarded, the point of view of 40,000,000 miles of wire, with the necessary switchboards and other instrumentalities, to enable any one of 16,000,000 stations to be connected with any other one of that total.

Financial Aspects

A third point of view from which the System may be regarded, and an essential one, is that to construct the Bell plant to render this service it has been necessary to obtain from somewhere a sum of money amounting to $2,750,000,000, a very large sum of money. This has been the amount which it has been necessary to spend for material and labor in order to construct the system and to provide the various accessories of one kind or another necessary to enable the system to give the service which it is rendering today.

Of that total sum of money, about $2,000,000,000 has come from investors, and the remaining $750,000,000 has come from surplus earnings and from reserves, which the company has accumulated to protect its property by providing for depreciation and to protect its earning capacity.

Now, who has provided this $2,000,000,000 which has come from investors? Large business is sometimes portrayed as a fat man wearing a suit of clothes with dollar signs all over it and with an exceedingly small head, and especially a low forehead; and it is supposed that one or a small group of such men usually located somewhere near the intersection of Wall Street and Broadway in lower Manhattan are the people who have provided this money and who are running the business and who are expecting to exact from the business the last cent of return and to render for that return the minimum possible amount of service.

Widespread Ownership

Who has really provided this $2,000,000,000 of money from the investors that is today invested in the Bell System? It has come from many, many people altogether. No individual has provided as much as one per cent of the total. The total number of people who have provided this money is not definitely known because we do not know exactly who owns our bonds, but as to stock, we have definite information. There are 350,000 people in the United States, men and women, more

than half of them being women, who have provided the money represented by the stock of the American Telephone and Telegraph Company. In addition there are about 200,000 people who have bought stock of the associated companies and provided money for the Bell System in that way.

Adding to this total 550,000, the uncertain but very large number of bondholders who through the ownership of bonds in this system have provided money, we arrive at a total somewhere between 600,000 and 750,000 people who have directly provided the money for this system and who are the owners of the property, so that when you think of the owners of the Bell system you must think of an army of people who have placed their savings in this system, greater in size than the working forces of the Bell System, numerous as that working force is.

Each year, as the number of telephones grows, it is necessary for investors to provide additional money for the extension of the system. This money cannot be commandeered and must be furnished voluntarily by investors. This money is provided by this same army of owners which I have mentioned and by additions to the army, because each year the number of people who own the Bell System and who are providing the money for it increases. The additional money required to extend the Bell System to take care of the growth of the business is now over $200,000,000 a year. So you can see without considering life insurance companies and similar institutions that own considerable quantities of the securities of the Bell System, and thereby further extend the ownership through the fact that such compaines are merely trustees for their policy holders or for others, that the ownership of this system is not a concentrated but it is a very widely distributed ownership. The average ownership in the system, notwithstanding the tremendous total, is somewhat less than $3,500 per person.

The return earned upon the property of the Bell System is between six and seven per cent on the book value of the property, surely not an exorbitant return, particularly when it is considered that the actual value of the Bell System property, as shown by many inventories and appraisals which have been tested out before commissions and in court, is in excess of its book value, and it is on its fair actual value and not on the book value that return should be based.

Conservative Financial Structure

On account of the conservative financial structure of the Bell System, on account of the fact that we have never distributed all of our earnings and that we have always provided adequate reserves, it is possible with this return of between six and seven per cent on the book value of the property to pay to the bondholders an interest return of between five and five and a half per cent, to pay to the preferred stockholders of associate companies a return of six and a half per cent in some cases and seven in others, and then for the American Telephone and Telegraph Company to have left over for its common stock about eleven dollars a share, of which nine dollars a share is paid to the stockholders and two dollars a share is held as a surplus to provide for contingencies and as an insurance on the regularity of dividend payments.

It is not the desire of the management of the company to get all that it can out of the public; it is the desire of the management to get enough to make a fair return to those who own the property, to have a fair surplus left beyond that, and to make the financial structure of the system so stable that the business may continue indefinitely, that our securities may always rate as investment securities, and that we may continue to attract capital as needed for extension of the business.

As engineers I know that it will appeal to you gentlemen that the financial structure of this great public utility should be safe. Exactly the same arguments can be presented to justify—indeed, to compel—the management to provide a safe financial structure as the arguments that require safety in designing and constructing a bridge. When you consider that the savings of somewhere between 600,000 and 750,000 people are directly involved in the financial structure of the Bell System, I know that it requires no debate to such an audience as this to prove that the structure should be safe and that the return should be fair and reasonable and should be consistent and uniform from year to year.

Loyal and Contented Workers

There is a fourth point of view of the Bell System; we can look at it as an aggregation of about 350,000 workers who are devoting their time and their effort to the rendering of telephone service to the people of the United States. These

350,000 people of every kind and description—men and women—operators, linemen, splicers, mechanics, engineers, managers, general managers and the presidents of the companies—are loyal and contended workers, and it is essential that they should be so. In any business it is difficult to render satisfactory service with dissatisfied employees. That is particularly true of a business such as the telephone business where each transaction brings the customer, the user of the service, in direct contact with one or more employees of the company. It is a very personal service that we are rendering to the people of the United States and that service cannot be rendered satisfactorily by dissatisfied employees, and it is one of our aims both in justice to the employees and in the interest of the service that our working forces should be satisfied.

A Complex Organization

To render a complex service extending all over the United States and involving the manufacturing, the construction, the maintenance and the operation of telephone plants necessarily involves a complex organization. One cannot accomplish a complicated result with a simple organization. Organization is merely the division of labor and the division of authority and responsibility, and if the labor to be performed is large in amount, complicated and diversified in character and widely separated as to location, the organization and its subdivision and the interrelations of its subdivided parts must be correspondingly complicated.

I will describe to you very briefly the organization of the Bell System. In the first place there is a group of Associated Companies, each of which operates a state or a group of adjacent states. Each Associated Company is a complete autonomous operating unit, headed by a president and having in its organization, under its operating vice president, departments charged with the duty of engineering, of constructing and maintaining its plant, of operating the plant, and of handling the commercial work in connection with the business. This organization deals with all questions local to or within the area of that company.

Next, there is the Long Lines Department of the American Telephone and Telegraph Company, which operates the telephone lines which connect together these Associated Companies. It is necessary to have such a departement, particularly when you consider that the calls going from one end of

the United States to the other might pass through the territories of six or seven different Associated Companies. The Long Lines Department owns, constructs, maintains and operates the main lines connecting together the principal centers of the different Associated Companies.

Next comes the Western Electric Company, which is the manufacturing department and the supply department of the Bell System. It is indeed a termendous institution, although only one of the units of the Bell System.

The Western Electric Company manufactures the materials and the equipment of a peculiarly telephonic character which are required in the Bell System, such as switchboards, substation equipment, and cables. It acts as the supply department and the purchasing department for the very large amount of material which it is necessary for the Bell System to buy from outside—poles, wires, conduits, a thousand and one other things which are not peculiarly telephonic in nature and therefore which we do not manufacture for ourselves.

You can get some idea of the magnitude of the Western Electric Company when I say that the Western Electric Company has about 50,000 workers.

Centralized Staff

The fourth part of the system is the American Telephone and Telegraph General Department. The A. T. & T. General Organization maintains a general staff organization, which staff organization does those things which can best be done at one central point rather than for each Associate Company to do such work for itself. In this connection I may mention such items as development and research, general engineering studies, the study of operating methods, a comparison of operating results of different companies, a study of auditing and bookkeeping methods; in fact the study of all questions which are common to all or a number of the companies in the system. The Bell Telephone Laboratories, of which you will hear further during the Conference, are very closely related to the A. T. & T. General Staff Organization.

Now a word as to the Bell System engineering problems, and the nature of its engineering work. Telephone engineering is sometimes thought of as a branch of electrical engineering. Properly considered, such is not the case. Telephone engineering, broadly considered, is more extensive than electrical engineering and is not a branch of it.

453

Broad Engineering Field

Considering the telephone engineering problem as merely the electrical problem of transmitting speech over wires, it is, of course, part of electrical engineering, but that is only the beginning and is not the end of our telephone problem. Before we get through with the development work, the manufacture, the construction, the maintenance and the operation of a system such as the telephone system, we have met with practically every type of problem that may be met with either in electrical or mechanical engineering and have gone to a considerable extent into a great many problems of a civil engineering character. In addition to each of those different aspects of our engineering work there is one other aspect of it which is peculiarly telephone engineering; that is the combining of the knowledge of all of these different branches of engineering so as to apply them to the telephone problem.

We have hundreds of people in our system who are devoting their attention almost exclusively to the electrical aspects of our problem. We have hundreds of others, perhaps thousands of others, who are devoting their attention to the mechanical aspects of the problem. We have hundreds, if not thousands, of others who are devoting their attention to engineering questions which, if you examine them in detail, you would say are clearly engineering, but I don't know whether they are mechanical engineering or electrical engineering or civil engineering, or just telephone engineering. But in all of those problems the principles of engineering are the same and any man who has had a good engineering training is fitted to start in and learn how to apply his engineering knowledge to such problems and how to make himself useful in the business. I don't know of a field which gives a broader opportunity for engineering without any qualification as to whether it is electrical, mechanical, or civil.

Of course the greatest responsibilities in engineering come to the men (and we have many of them in the system carrying such responsibilities) who can take the various aspects of telephone engineering problems and join them with the business and policy considerations involved and, taking into account all of the factors of the case, both technical and non-technical, determine the answer to the final question, which is the only answer that an engineer should give; that is, "Taking into account all of the circumstances of the case, this is the best and the right way to do this thing."

CITY EXHIBIT 88.

Atlantic Monthly.
April, 1921.

(CUT)

LOYALTY TO PUBLIC SERVICE.

Almost daily something happens, somewhere in this broad land, that strikingly proves the loyalty and devotion of Bell Telephone employees.

Storm, flood, fire, tornado, explosion, wreck are met in a manner that emphasizes the spirit of service underlying the daily work of telephone people.

This loyalty, this thought of service first," is more than devotion to an organization, great and fine as that may be. It is devotion to the whole telephone democracy, to the millions who form the telephone-using public.

And it is this same sprit of responsibility to the people which has strengthened thousands of telephone employees during the hard period of after-war reconstruction.

This spirit of service is being handed on to the new employees who have come to help us meet the enlarged demands now being made upon the telephone.

If all the facts were known, workers such as these would receive nothing but appreciation and encouragement from the public.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATE COMPANIES.

One Policy *One System* *Universal Service*
And all directed toward Better Service.

Atlantic Monthly.
March, 1922.

(CUT)

FORESIGHT.

More than forty years ago, when the telephone was still in its experimental stage, with but a few wires strung around Boston, the men back of the undertaking foresaw a universal system of communication that would have its influence upon all phases of our social and commercial life.

They had a plan of organization capable of expansion to meet the growth they foresaw; and their wisdom is borne out by the fact that that plan which they established when telephones were numbered by dozens is efficient now when telephones are numbered by millions.

This foresight has advanced the scientific development of the art of telephony to meet the multiplied public requirements. It has provided for funds essential to the construction of plant; for the purchase of the best materials on the most advantageous terms; for the training of employees to insure skilled operators; for the extension of service in anticipation of growth, with the purpose that no need which can be foreseen and met will find the Bell System unprepared.

The foresight of the early pioneers has been developed into a science during the years which have elapsed, so that the planning of future operations has become a function of the Bell System. This is why the people of the United States have the most efficient and most economical telephone service in the world.

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATE COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
July, 1922.

(CUT)

A TELEPHONE CITY.

Above is an imaginary city, made by grouping together one-fifth of the buildings owned by the Bell System, and used in telephone service. Picture to yourself a city *five times* as great and you will have an idea of the amount of real estate owned by the Bell System throughout the country.

If all these buildings were grouped together, they would make a business community with 400 more buildings than the total number of office buildings in New York City, as classified by the Department of Taxes and Assessments.

Next to its investment in modern telephone equipment, the largest investment of the Bell System is in its 1,600 modern buildings, with a value of $144,000,000. Ranging in size from twenty-seven stories down to one-story, they are used principally as executive offices, central offices, storehouses and garages. The modern construction of most of the buildings is indicated by the fact that the investment in buildings is now over three times what it was ten years ago.

Every building owned by the Bell System must be so constructed and so situated as to serve with efficiency the telephone public in each locality, and to be a sound investment for future requirements.

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
September, 1922.

(CUT)

SCIENCE KEEPS DOWN COSTS.

When the Bell System installed its first successful telephone cable, fifty wires was the largest number that could be operated in a single cable without "cross-talk" and other interference. Today it would require 48 cables of the original type to accommodate the number of wires often operated in one cable.

Without this improvement in cable, the construction of new underground and aerial lines would have cost the Bell System upwards of a hundred million dollars more than has actually been spent. In addition, the cost of maintenance would have been greater by eighteen million dollars a year. These economies in the Bell System mean a saving in telephone rates to each individual subscriber.

In all branches of telephone practice science has similarly contributed to economy. Even in such a comparatively small item as switchboard cords, improvements have reduced the cost of renewal by four million dollars a year.

Every new telephone added to the Bell System increases the usefulness of *all* telephones, but this multiplication tends likewise to increase the complications and the expense of service. The scientists of the Bell System, to offset this tendency, are constantly called upon to develop new devices which simplify complications and keep down costs.

By virtue of a united system the benefits of these improvements are shared by all subscribers—and the nation is provided with the best and cheapest telephone service in the world.

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
October, 1922.
(CUT)

AS IF ACROSS A DESK.

"New York is calling!" says the operator in San Francisco. And across the continent business is transacted as if across a desk.

Within arm's length of the man with a telephone are seventy thousand cities, towns and villages connected by a single system. Without moving from his chair, without loss of time from his affairs, he may travel an open track to any of those places at any time of day or night.

In the private life of the individual the urgent need of instant and personal long distance communication is an emergency that comes infrequently—but it is imperative when it does come. In the business life of the nation it is a constant necessity. Without telephone service as Americans know it, industry and commerce could not operate on their present scale. Fifty per cent more communications are transmitted by telephone than by mail. This is in spite of the fact that each telephone communication may do the work of several letters.

The pioneers who planned the telephone system realized that the value of a telephone would depend upon the number of other telephones with which it could be connected. They realized that to reach the greatest number of people in the most efficient way a single system and a universal service would be essential.

By enabling a hundred million people to speak to each other at any time and across any distance, the Bell System has added significance to the motto of the nation's founders: "In union there is strength."

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
November, 1922.
(CUT)

OWNED BY THOSE IT SERVES.

Less than fifty years ago an application was made for a patent which created the possibility of speech between distant points. It was the culmination of years of study, research and experiment. It suggested a new aid in commerce and domestic life; a new tie to bind the people together. But it was only a suggestion—a dream.

To make that dream come true required the creation of an organization unlike any other. It demanded a kind of scientific knowledge that was yet to be formulated, as well as a type of equipment still to be devised. And it necessitated the financial and moral support of many communities.

Out of this situation grew the Bell System, bringing not only a new public service, but a new democracy of public service ownership—a democracy that now has more than 200,000 stockholders—a partnership of the rank and file who use telephone service and the rank and file employed in that service. The American Telephone and Telegraph Company exists to serve the people and is owned directly by the people —controlled not by one, but controlled by all.

Evolution is going on. Each year the ownership is more widespread. Each year the various processes of the service are performed more efficiently and economically. Each year new lines and extensions are constructed. The responsibility of the management is to provide the best possible telephone service at the lowest possible cost and to provide new facilities with the growth of demand. To do these things requires equipment, men and money.

The rates must furnish a net return sufficient to induce you to become a stockholder, or to retain your stock if you already are one; after paying wages sufficient to attract and retain capable men and women in the service. They must adequately support and extend the structure of communication.

These are considerations for the interest of all—public, stockholders, employees.

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy One System Universal Service, and all directed toward Better Service.

American Magazine.
September, 1923.
(CUT)

CONSTRUCTION DAY BY DAY.

So great and so constant is the growth of demand for telephone service that the Bell System invests throughout the country an average of three-quarters of a million dollars every working day for new telephone plant.

New aerial lines are always under construction or extension, new subways are being dug and cables laid, larger building accommodations are under way, more switchboards are in process of building or installation, and added facilities of every description being mustered into service to care for the half million or more new subscribers linked to the System every year.

This nation-wide construction, this large expenditure of funds, could not be carried out efficiently or economically by unrelated, independent telephone organizations acting without co-operation in different sections of the country. Neither could it be carried out efficiently or economically by any one organization dictating from one place the activities of all. In the Bell System all the associated companies share common manufacturing and purchasing facilities which save millions of dollars annually. They share scientific discoveries and inventions, engineering achievements, and operating benefits which save further millions. But the management of service in each given territory is in the hands of the company which serves that territory and which knows its needs and conditions.

By thus combining the advantages of union and co-operation with the advantages of local initiative and responsibility, the Bell System has provided the nation with the only type of organization which could spend with efficiency and economy, the millions of dollars being invested in telephone service.

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
October, 1923.

(CUT)

A COMMUNITY OF OWNERS NATION-WIDE.

"Who owns the company?" "What is behind it?" These questions are asked in appraising the soundness of a business and in determining its aim.

The American Telephone and Telegraph Company is owned by more than 270,000 people living in every state in the Union. Could the stockholders of the Bell System be gathered to one place, they would equal the population of a city about the size of Providence or Denver.

They constitute a representative cross-section of American citizenship. Among them, of course, are bankers and men of large affairs; for the idea of ownership in the Bell System appeals to sound business judgment and a trained sense of values.

In this community of owners are the average man and woman, the storekeeper, the clerk, the salesman, the professional man, the farmer and the housewife—users of the telephone who with their savings have purchased a share in its ownership. The average individual holding is but twenty-six shares.

No institution is more popularly owned than the Bell System, none has its shares distributed more widely. In the truest sense it is owned by those it serves.

"BELL SYSTEM"

(CUT)

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

One Policy, One System, Universal Service, and all directed toward Better Service.

American Magazine.
December, 1923.

(CUT)

CROSSROADS OF CONVERSATION.

Could the telephone directory in the hands of each subscriber be revised from hour to hour, there would be no need for the information operator. But the directory cannot at one time list all subscribers. Even during its printing and binding, thousands of changes take place in the telephone community. New subscribers are added to the list. Old ones move their places of business or of residence.

Though their names are not listed on the directory, these subscribers must be connected by the highways of speech with all others in the community. To supplement the printed page, there must be guides at the crossroads of conversation.

Such are the information operators, selected for their task because of quickness and accuracy, courtesy and intelligence. At their desks, connected with the switchboards in central offices, they relieve the regular operators from answering thousands of questions about telephone numbers that would otherwise impede the rendering of service. If they are asked for numbers already in the directory, service is retarded.

"Information" stands for the most complete utilization of telephone facilities."

"BELL SYSTEM"

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

One Policy, One System, Universal Service, and all directed toward Better Service.

Atlantic Monthly.
April, 1924.

(CUT)

EACH SERVES ITS COMMUNITY.

In Fraser, Colorado, a log cabin of three rooms shelters a telephone exchange that connects with the mountain homes of cowmen, miners, homesteaders and tie-cutters. In the heart of New York City a new building of twenty-nine stories is to become the home of several metropolitan central offices serving some 120,000 telephones. This building will contain, as well, offices for executives and for engineering, commercial, plant and accounting forces, providing space for over 7000 telephone workers.

Each of these buildings helps to render adequate and economical telephone service in its own community. They stand to the extremes in size, equipment and personnel. Yet they both indicate the nation-wide need for adequate housing of the activities of the Bell System; and they illustrate the varied ways in which that need is being met. One of the largest single items of plant investment of the Bell System is real estate, comprising nearly 1700 buildings acquired, with their sites, at a cost of $180,000,000.

It is continuously the aim of the Bell System to construct and so to situate each new building—whether executive office, central office, storehouse or garage—so that it shall serve its community with the utmost efficiency and economy, and remain a sound investment throughout its period of life.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

BELL SYSTEM

One Policy, One System, Universal Service.

American Magazine.
December, 1924.

(CUT)

THE PEOPLE'S TELEPHONE.

The telephone knows no favorites. It does the bidding of the country store and of the city bank. It is found in the ranch house kitchen and in the drawing-room of the city mansion. Its wires penetrate the northern forest, stretch across the prairie, are tunneled under city streets.

The telephone knows no favorites. Its service to all the people is of the same high standard—the Bell System standard. Twenty-four hours a day it carries the voices of all. For the benefit of all, the long-distance circuits are kept in tune. Numberless discoveries and improvements developed by the Bell System have made the telephone more useful for all the people. In America, all can afford the telephone, for Bell System service is the cheapest, as well as the best, in the world.

The telephone knows no favorites. It is not owned in any one locality or by any particular group of men. It is owned by 350,000 stockholders, who represent a cross-section of the thrift of the whole country. The owners of the telephone are those it serves.

In America today the 15,000,000 telephones of the Bell System contribute to the security, happiness and efficiency of all the people.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

BELL SYSTEM

One Policy, One System, Universal Service.

Atlantic Monthly.
March, 1925.

(CUT)

GIVE US TELEPHONES.

Following the war, when business and social life surged again into normal channels, there came the cry from homes, hospitals, schools, mills, offices—"Give us telephones." No one in the telephone company will ever forget those days.

Doctors, nurses and those who were sick had to be given telephones first. New buildings, delayed by war emergency, had to be constructed, switchboards built and installed, cables made and laid, lines run and telephones attached.

The telephone shortage is never far away. If for a few years the telephone company was unable to build ahead, if it neglected to push into the markets for capital and materials for the future's need, there would be a recurrence of the dearth of telephones. No one could dread that so much as the 350,000 telephone workers.

Bell System engineers measure and forecast the growth of communities; cables, conduits, switchboards and buildings are planned and developed years ahead, that facilities may be provided in advance of telephone want. Population of business requirement added to a community must find the telephone ready, waiting.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

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(CUT)

American Magazine.
July, 1925.

WHO OWNS THE TELEPHONE?

For seven carefree years young John Graves worked in the car shops at Orenville, spending his dollars as fast as he earned them. Soon after his promotion to foreman, he was married and moved to a little white house on Orchard Avenue. Life was happier than ever, but spare dollars were not more plentiful, especially after a third member was added to the family.

Then came a day when the plant superintendent showed John the wisdom of saving a part of his earnings, for the satisfaction it would bring, and for protection against emergencies and old age. He and his young wife, for the first time, learned the difficult art of economy, and finally they came to know the joys of saving and of safe investment.

Today John Graves, and many thousands like him, own the stock of the American Telephone and Telegraph Company. This company is owned by more people than any other, and the great majority of its owners—laborers, clerks, housewives, business men and others—have bought it with their savings. As its business has grown, the number of its shareholders has increased until now one out of every 45 telephone subscribers is also a stockholder.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

BELL SYSTEM

One Policy, One System, Universal Service.

American Magazine.
January, 1926.

(CUT)

AN ACCOUNT OF STEWARDSHIP.

Fifty years ago Dr. Alexander Graham Bell was busy upon a new invention—the telephone. The first sentence had not been heard; the patent had not been filed; the demonstration of the telephone at the Centennial Exposition had not been made. All these noteworthy events were to occur later in the year 1876. But already, at the beginning of the year, the basic principle of the new art had been discovered and Bell's experiments were approaching a successful issue.

The inventor of the telephone lived to see the telephone in daily use by millions all over the world and to see thousands of inventions and developments from his original discovery.

If he had lived to this semi-centennial year, he would have seen over 16,000,000 telephones linked by 40,000,000 miles of wire spanning the American continent and bringing the whole nation within intimate talking distance. He would have seen in the Bell System, which bears his name, perhaps the largest industrial organization in the world with nearly $3,000,000,000 worth of public-serving property, owned chiefly by an army of customers and employees.

He would have seen developed from the product of his brain a new art, binding together the thoughts and actions of a nation for the welfare of all the people.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

(CUT)

BELL SYSTEM

In its Semi-Centennial year the Bell System looks forward to continued progress in telephone communication.

American Magazine.
July, 1926.

THE BUILDERS OF THE TELEPHONE.

Spanning the country, under rivers, across prairies and over mountain ranges, the telephone builders have carried the electric wires of their communication network. Half a century ago the nation's telephone plant was a few hundred feet of wire and two crude instruments. The only builder was Thomas A. Watson, Dr. Bell's assistant.

It was a small beginning, but the work then started will never cease. In 50 years many million miles of wire have been strung, many million telephones have been installed, and all over the country are buildings with switchboards and the complicated apparatus for connecting each telephone with any other. The telephone's builders have been many and their lives have been rich in romantic adventure and unselfish devotion to the service.

Telephone builders are still extending and rebuilding the telephone plant. A million dollars a day are being expended in the Bell System in construction work to provide for the nation's growing needs.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND ASSOCIATED COMPANIES.

BELL SYSTEM.

In its Semi-Centennial year the Bell System looks forward to continued progress in telephone communication.

CITY EXHIBIT 89.

April 15, 1929

TIME.

(Cut)

SUDDENLY, OUT OF A SPRING SKY . . .

An Advertisement of the
American Telephone and Telegraph Company

All was well on the telephone front on April 27, 1928. Suddenly, out of a spring sky, rain began to fall over central Pennsylvania. As night came on this turned into a furious storm of sleet, snow and wind. Inside of 48 hours, 3700 telephone poles were down. Seven thousand miles of wire tangled wreckage. Thirty-nine exchanges isolated. Eleven thousand telephones silent.

Repair crews were instantly mobilized and sent to the scene. From Philadelphia 47 crews came. Other parts of Pennsylvania sent 13. New Jersey, 6. New York, 4. Ohio, 6. Maryland and West Virginia, 12. In record time, 1000 men were stringing insulated wire and temporary cables along the highways, on fences and on the ground.

Within 72 hours the isolated exchanges were connected and the 11,000 telephones back in service. Then, while the temporary construction carried on, neighboring Bell System warehouses poured out all needed equipment, new poles were set, new crossarms placed and new wire and cable run.

In any crisis there are no state lines in the Bell System. In all emergencies of flood or storm, as well as in the daily tasks of extending and maintaining the nation-wide network, is seen the wisdom of One Policy, One System, Universal Service. Better and better telephone service at the lowest cost is the goal of the Bell System. Present improvements constantly going into effect are but the foundation for the greater service of the future.

"The Telephone Books are the Directory of the Nation."

WORLD'S WORK FOR FEBRUARY 1929

(Cut)

THERE IS NO STANDING STILL . . .

An Advertisement of the
American Telephone and Telegraph Company

During the past two years 6000 switchboards have been reconstructed in the larger cities served by the Bell System to enable the operators to give a more direct and faster service.

Previously in towns where there were more than one central office, your operator would hold you on the line while she got the operator at the other central office on an auxiliary pair of wires. Now she connects directly with the other central office and repeats the number you want to the other operator. You hear her do this so that you can correct her if there is any mistake.

This little change cost millions of dollars. Likewise, it saves millions of minutes a day for the public and it has cut down the number of errors by a third.

It is one of the many improvements in methods and appliances which are constantly being introduced to give direct, high-speed telephone service.

There is no standing still in the Bell System. Better and better telephone service at the lowest cost is the goal. Present improvements constantly going into effect are but the foundation for the greater service of the future.

"The Telephone Books are the Directory of the Nation."
February 4, 1929.

TIME

(Cut)

WHERE THE BELL SYSTEM'S PROFIT GOES

An Advertisement of the
American Telephone and Telegraph Company

There is in effect but one profit paid by the Bell Telephone System. This profit is not large, for it is the policy of the Bell System to furnish a constantly improving telephone service at the least cost to the public.

The treasury of the American Telephone and Telegraph Company receives dividends from the stock of the operating companies. It receives a payment from the operating companies for research, engineering and staff work. It receives dividends from the Western Electric Company—makers of supplies for the Bell System—and income from long distance operations.

Only one profit is taken from this money in the American Telephone and Telegraph Company's treasury. That is the regular dividend to its stockholders—now more than 450,000 in number—which it has never missed paying since its incorporation in 1885.

Money beyond regular dividend requirements and a surplus for financial stability is used to give more and better telephone service to the public. This is fundamental in the policy of the company.

The Bell System accepts its responsibility to provide a nation-wide telephone service as a public trust.

CITY'S EXHIBIT 124.

Placita—Superior Court of Cook County (Decree) Form 89

UNITED STATES OF AMERICA

STATE OF ILLINOIS, COUNTY OF COOK. } ss.

PLEAS, before the Honorable WILLIAM E. DEVER, one of the Judges of the Superior Court of Cook County, in the State of Illinois, holding a branch Court of said Court, at a regular term of said Superior Court of Cook County, begun and holden at the Court House, in the City of Chicago, in said County, and State, on the first Monday, being the second day of July, in the year of our Lord one thousand nine hundred and seventeen, and of the Independence of the United States of America, the one hundred and forty first.

Present:—The Honorable WILLIAM E. DEVER
Judge of the Superior Court of Cook County.

MACLAY HOYNE, *State's Attorney.*
JOHN E. TRAEGER, *Sheriff of Cook County.*

Attest: JOHN KJELLANDER, *Clerk.*

Be it remembered that heretofore, to-wit: on the 10th day of July, in the year of our Lord one thousand nine hundred and seventeen, the same being one of the days of the July Term of the Superior Court of Cook County the following among other proceedings were had in said Court and entered of record, to-wit:

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

IN THE SUPERIOR COURT OF COOK COUNTY.

William A. Read, *et al.*, *vs.* Central Union Telephone Company, *et al.*	In Chancery. Gen. No. 299,689. Original bill as amended, supplemental bill and third amended cross bill.

FINAL DECREE.

This cause coming on for final hearing upon the original bill of complaint as amended and the supplemental bill of complaint herein, and upon the respective answers of the defendants thereto, and the several replications of the complainants to said answers, and upon the third amended cross bill of the defendant the American Telephone and Telegraph Company, and upon the answers of the cross defendants thereto and the several replications of the cross complainant to said answers, and upon the stipulation of facts hereinarter referred to and the depostions on file in the cause and read in evidence, and upon other evidence oral and documentary produced and heard in open court, and the court having heard the arguments of counsel for the respective parties, and being fully advised in the premises, and all parties by their respective counsel and solicitors being present, doth find and adjudge:

1. That the court has jurisdiction of this cause and of the parties thereto and of the subject matter thereof.

2. That a printed stipulation of facts dated January 30th, 1914, was entered into by the respective solicitors for the parties to this cause and filed herein, a copy of which stipulation of facts is hereto attached as Exhibit A and made a part hereof as fully and completely as though the same were set forth therein, and the court finds that the matters therein stipulated are true subject to the terms, provisions and reservations therein stated.

3. That the original bill of complaint in this cause was filed on February 8th, 1913, by the late William A. Read of New York, and Charles J. Spencer and Charles G. Foster of New Jersey, as minority stockholders of the Central Union Telephone Company on behalf of themselves and such other stockholders as should desire to join as complainants; that since the filing of said bill, to wit, on April 7th, 1916, said William A. Read died and thereafter his executors, Caroline Seaman Read, Joseph H. Seaman and George W. Wickersham were by order duly entered substituted as parties complainant in this cause; that at the date of the filing of said original bill said Read was the holder of record of 704 shares of the stock of said Central Union Telephone Company, said Spencer was the holder of record of 50 shares and said Foster was the holder of record of 75 shares; that of the stock so standing in the name of said Read 500 shares belonged to Edward H. Litchfield, and the 50 shares of stock standing in the name of said Spencer belonged to John Seely Ward; that said Read, Spencer, Foster, Litchfield and Ward are hereinafter referred to as the original complainants in this cause; that after the institution of said suit other minority stockholders, to wit, Ernest M. Kimball, Archibald A. Beebe, Frederick W. Schwamb, Frederic F. Day and Ruth Day, intervened by petitions duly filed herein and were upon orders duly entered made complainants in this cause and are hereinafter referred to as the intervening complainants; that said Kimball at the date of the filing of the bill was the holder of record of 250 shares of the stock of said Central Union Telephone Company; that said Beebe was the holder of record of 76 shares; that said Schwamb was the holder of record of 310 shares; that said Frederick F. Day was the holder of record of 30 shares; and that said Ruth Day was the holder of record of 33⅓ shares; that all of said original complainants owned their said stock prior to the year 1900 and prior to the time when the stock of said company was reduced by the surrender without consideration by all stockholders to the company of one-half of their respective holdings in said company, and that the stock owned by said original complainants as aforesaid at the date of the filing of the bill represented twice that amount of stock originally owned by them respectively, that said Frederic F. Day and said Ruth Day, intervening complainants, owned some of their stock from the organization of the company, that they surrendered as aforesaid one half of the stock of their original holdings in 1901 as aforesaid; that the other intervening complainants purchased their said stock at different times from the year 1901 to 1905.

4. That the defendant the Central Union Telephone Company, hereinafter referred to as the Union Company, is a corporation duly organized under the laws of the State of Illinois in 1883 and the object for which it was formed as expressed in its articles of incorporation is correctly set forth in the aforesaid stipulation of facts, Article 2, at page 2 thereof; that said Union Company is and at all times since its organization has been conducting a telephone business throughout the larger part of the States of Illinois, Indiana and Ohio, and at the date of the filing of the bill had telephone exchanges in the cities and towns named in said stipulation of facts, Article 3, at pages 3 to 7 thereof, and that said corporation also is and has at all times since its organization been engaged in conducting an exchange telephone business and a toll telephone business over such toll lines as it then had in the three states aforesaid, and is and at all times has been engaged as aforesaid as a public service corporation in the business of a common carrier of telephone messages both intrastate and interstate over such lines.

5. That the defendant the American Telephone and Telegraph Company, hereinafter referred to as the American Company, is a corporation organized under the laws of the State of New York in 1885, and that a correct copy of its articles of incorporation is set forth in said stipulation of facts, Article 16, at pages 20 to 23; that said American Company is and at all times since its organization has been engaged in conducting a long distance telephone business exclusively, with the exception of a single exchange not in the Union Company's territory as a public service corporation and a common carrier of telephone messages both intrastate and interstate; that the term "long distance" as used in this decree means the toll business transacted by the American Company which for the most part was conducted jointly with its subsidiaries, one of such subsidiaries being the Union Company; that said American Company was at the date of the filing of the bill and had been for many years prior thereto engaged in conducting said business in many different portions of the United States, including the aforesaid States of Illinois, Indiana and Ohio; that said American Company duly complied with the laws of Illinois regulating foreign corporations doing business therein by filing on the 30th day of January, 1899, a duly certified copy of its articles of incorporation with the Secretary of State of Illinois; that said American Company or its predecessor the American Bell Telephone Company, hereinafter referred to as the Bell Com-

pany, has for many years been the holder of record of a majority of the stock of said Union Company as set forth more in detail in said stipulation of facts, Article 9, at page 9 and 10 thereof; that at the date of the filing of said bill said American Company was the holder of record of over 94% of the stock of said Union Company and was also the holder of stock in many other operating telephone companies which had been organized by said Bell or said American Companies and were conducting a general telephone business in different portions of the United States, as is more particularly set forth in said stipulation of facts, Article 21, at pages 37 and 38 thereof, said operating telephone companies (including said Union Company and the Chicago Telephone Company defendants herein) being hereinafter referred to as the subsidiary companies of the Bell system; that said American Company in the year 1899 acquired from said Bell Company stock in many of said subsidiary companies, including said Union Company; that said Bell Company is a corporation organized under the laws of Massachusetts in the year 1880, and from its organization has been doing business in different states including Illinois; that correct copies of the original charter of said Bell Company and of the amendment thereof passed in 1886 are set forth in said stipulation of facts, Article 15, at pages 15 to 20 thereof; that said Bell Company was the parent company of said Bell system from 1880 up to 1899, when it transferred substantially all its property and rights, to said American Company, and said American Company assumed all claims against said Bell Company then existing or that might thereafter arise, as set forth in the contract set out in said stipulation of facts, Article 18, page 24 thereof, and became the parent company of said Bell system; that when the phrase "parent company" or "parent organization" is hereinafter used it will be used as referring to the dominant organization in the Bell system for the time being.

6. That the defendant the Chicago Telephone Company, hereinafter referred to as the Chicago Company, is a corporation organized under the laws of Illinois in 1881 for the purposes set forth in Article 40 of said stipulation of facts at page 93 thereof and is now and has at all times since its organization been carrying on a general intrastate and interstate telephone business, as in said article is more particularly set forth; that at the time of the filing of the original bill herein its outstanding stock had a par value of $27,000,000, of which over $26,300,000 was held by the said Amer-

ican Company, and said American Company or its said predecessors said Bell Company has at all times since the organization of said Chicago Company held a majority of the outstanding stock thereof.

7. That the defendant the Western Electric Company is a corporation organized under the laws of Illinois in 1882 and is hereinafter referred to as the "Electric Company"; that said American Company or said Bell Company has at all times held a majority of its stock as is more particularly set forth in said stipulation of facts, Article 41, at page 94 thereof; that at the date of the filing of the bill herein said American Company held 96 per cent. of the stock of said Electric Company; that said Electric Company at all times since its organization has for all intents and purposes constituted the manufacturing department of the Bell System.

8. That the individual defendants Bethell, Brownell, Burt, Hill, Jackson, Richardson, Sherwin, Sunny, Vail, Mosley, and Whitney constituted at the date of the filing of the bill the board of directors of said Union Company; that none of said directors owned any stock in the Union Company at that date; and each of the said directors was the holder of record of ten shares of stock in said Union Company which belonged to said American Company and the certificates of which had been surrendered to said American Company immediately after their issue; that of said directors of said Union Company said defendants Vail and Bethell were president and senior vice president respectively of said American Company and were on the board of directors of said Union Company merely as representatives of said American Company; that said defendants Vail and Bethell held numerous offices in other Bell subsidiary companies; that five of the other aforesaid directors of the Union Company, to wit, the defendants Sunny, Burt, Hill, Richardson and Mosley were in the employ of the Union Company and also of four other Bell subsidiaries, to wit, the Chicago, Michigan, Wisconsin, and Cleveland companies, all having their headquarters in Chicago and constituting what is known as the Central Group of Bell companies, hereinafter more particularly described, and each of said five defendants last mentioned was and in the past has been otherwise closely allied with said American Company or said Bell system; that said defendant Richardson was president of said Union Company from 1903 to 1911; that the defendant Whitney was an employee of the Union Company; that of the three other directors, to wit, the defendants Jackson, Sherwin and Brownell, Jackson and Sherwin were also

directors of the Cleveland Company, a Bell subsidiary company as aforesaid.

9. That the officers of said Union Company at the date of the filing of the bill, to wit, the defendant Sunny, president, the defendant Burt, vice president, the defendant Richardson, general counsel, the defendant Hill, general manager, the defendant Garvey, general auditor, the defendant Mosley, treasurer, and the defendant Mizner, secretary, held corresponding offices in the four other Bell subsidiaries above mentioned constituting the central group; that the defendant Sunny, in addition to being president of said Union, Chicago, Wisconsin, Michigan and Cleveland companies aforesaid, was also vice president of the American Company and receiving a salary of $6,000 per year from said company, and was also a director of said Electric Company and of the Nebraska Telephone Company, a Bell subsidiary; that the fact that said Sunny was receiving a salary from said American Company was not known to other officers and directors or stockholders of said Union Company.

10. That the aforesaid Bell Company upon its organization in 1880 as aforesaid, became the owner of the so-called fundamental Bell telephone patents, being patents No. 174465 and No. 186787 which had been issued to Alexander Graham Bell on the 7th day of March, 1876, and 3d day of January, 1877, respectively, and had prior to 1880 belonged to the National Bell Telephone Company, the then parent company; that from the very beginning of the telephone industry it was the purpose and intent of the parent company to monopolize the telephone business of the country and that in giving effect to this purpose generally two methods were adopted: first, by securing the patent rights to the devices for the transmission of telephone messages, and second, by acquiring stock controls in the subsidiary companies of the Bell system and through such stock controls in various ways dominating and directing the affairs of such subsidiaries; that there was in the intercorporate relations of the Bell and American Companies and the subsidiary companies but one dominant purpose, and that was to organize and control the telephone business of the country under a central governing authority; that the subsidiary companies have not in fact been operated by their own managements but have been mere agencies created and used by the parent company for the purpose of extending and expanding its telephone business, and that the stock of the Union Company was acquired as hereinafter more particularly set forth for this illegal purpose of the parent company

to suppress competition and to create a monopoly; that the vision of the early promoters was to own or control whenever possible any and all companies doing a telephone business in the United States, and its control of the three Illinois corporations above referred to, to wit, the Union Company, the Chicago Company and the Electric Company, is merely indicative of its general purpose to control the telephone business of the country; that the early conception of the leaders of the Bell organization was that of an immense telephone organization extending throughout the United States, and that the continued purpose of these men was to create and perpetuate a system under centralized control which would have a monopoly of the telephone business of the country; that the relations of this central organization with the Union Company was merely an important incident of this monopoly program; that the parent telephone organization seems early in its history to have indulged the error that the telephone business of the nation by right belonged to it, and the fundamental plan of organization adopted from the very first called for a central stockholding corporation which should have a stock control in each of the many telephone companies operating throughout the United States for the purpose of securing a country-wide combination of telephone companies under a common and centralized business control.

11. That prior to 1880 the parent company of the Bell System had organized subsidiary companies in different parts of the United States and had issued to said companies license contracts of the character hereinafter described granting exclusive privileges in certain defined territories which when taken together covered substantially the entire telephone territory of the United States; that the growth of the stockholding interest of the Bell and American Companies in the several subsidiaries is indicated by the following table (the initials "W. E." in the second column referring to the Western Electric Company):

10

AMERICAN BELL TELEPHONE CO.

Year	Number of Subsidiaries, including W. E.	Number of Shares of Capital Stock Owned	Total Par Value of Capital Stock Owned
1882	8	7,440	$ 1,754,425.00
1883	16	28,068	5,163,025.00
1884	20	193,737	19,173,575.00
1885	31	209,899.5	22,630,375.00
1886	30	210,069.46	22,651,221.00
1887	32	213,036.46	22,379,121.00
1888	34	243,414.46	25,388,521.00
1889	37	272,928.77	28,299,452.00
1890	41	308,518.46	31,590,921.00
1891	41	315,667.5	33,330,625.00
1892	41	325,624.38	34,375,591.67
1893	41	356,515.49	37,371,825.00
1894	42	371,095.66	38,614,285.60
1895	42	429,963.41	44,469,516.60
1896	44	557,045.846	54,780,033.60
1897	44	576,004.346	56,920,433.60
1898	41	635,086.346	62,393,963.60

AMERICAN T. & T. COMPANY

Year	Number of Subsidiaries, including W. E.	Number of Shares of Capital Stock Owned	Total Par Value of Capital Stock Owned
1887	7	2,735	$ 255,100.00
1888	12	4,727.4	447,130.00
1889	15	8,314.3267	780,322.67
1890	16	9,105.8467	863,834.67
1891	17	9,383.3467	891,584.67
1892	18	10,595.4467	974,794.67
1893	21	12,928.9467	1,164,919.67
1894	23	22,977.5767	1,789,153.67
1895	23	23,881.5767	1,879,953.67
1896	24	87,105.6634	7,795,966.34
1897	24	92,706.6634	8,126,906.34
1898	24	101,021.6634	8,612,136.34
1899	43	572,713.0334	53,183,408.34
1900	39	751,565.1834	69,187,485.00
1901	36	867,253.3834	81,241,137.50
1902	37	1,060,540.4584	98,272,810.84
1903	36	1,248,101.4584	112,551,214.59
1904	36	1,354,249.9584	119,476,409.59
1905	34	1,607,465.2917	142,323,447.92
1906	34	1,821,175.2917	162,295,369.17
1907	35	2,187,927.0000	191,735,270.00

That by 1913 the stock held by the American Company in subsidiary companies had increased to the enormous total of $454,307,263.79 and the American Company owned from 90 to 100 per cent. of the capital stock in most of these subsidiary companies; that in a very few companies it held slightly less than a majority of the stock, but it is quite evident from the evidence that its control of all these companies by reason of its stock ownership and physical line connections was well-nigh absolute; that in each of the three Illinois corporations that are parties to this record, namely the Union Company, the Chicago Company and the Electric Company, the American Company owned at the time the bill was filed about 94 per cent. of the stock.

12. That the aforesaid purpose on the part of the parent company to suppress all competition in the telephone business is evidenced by many facts in this record, and among others by the contract which the National Bell Telephone Company, the predecessor of the aforesaid Bell Company, entered into in 1879 with the Western Union Telegraph Company, a corporation which had owned and controlled certain telephone patents and had entered the field of furnishing telephone service to the public as a competitor of the Bell system and had established telephone exchanges in Illinois and in a large number of places in different parts of the United States; that litigation had been and was at the date of said contract pending as to the priority of invention of the several patents owned by said National Bell Company and said Western Union Telegraph Company respectively and no adjudication had been or ever was made to determine which of said patents had the prior right; that in and by the provisions of said contract of 1879 between said National Bell Telephone Company and said Western Union Telegraph Company said Western Union Telegraph Company transferred to said National Bell Telephone Company its telephone patents and the telephone exchanges that it had established, and further agreed not to connect its telegraph wires with any telephone system other than the Bell system; that on the other hand said National Bell Telephone Company agreed to pay to said Western Union Telegraph Company a percentage, to wit, 20 per cent. of all rentals and royalties received for the use of telephone instruments rented by said National Bell Telephone Company, and further agreed to give said Western Union Telegraph Company certain exclusive privileges of connecting with the telephone lines of said Bell system, and that the lines of said Bell

system would not be used in competition with the telegraph lines of said Western Union Telegraph Company in certain classes of business, such as the transmission of general business messages, market quotations and news for sale or publication; that the result of this contract of 1879 was that said Western Union Telegraph Company, the most formidable rival that the Bell system had, went out of the telephone business, and that on the other hand the National Bell Telephone Company abandoned the telegraph business; that all competition, actual or potential, between the two companies and the two systems represented by said companies respectively was eliminated or suppressed.

13. That the Electric Company was incorporated in 1882 as a reorganization of the Western Electric Manufacturing Company, a corporation which, prior to 1879 when the Western Union Telegraph Company went out of the telephone business as aforesaid, had been manufacturing telephone apparatus and supplies for said Western Union Telegraph Company and was the owner of certain telephone patents which said Bell Company desired to control; that immediately after the organization of said Electric Company, to wit, on February 6, 1882, said Bell Company and said Electric Company entered into a contract, a correct copy of which is set forth in said stipulation of facts, article 43, pages 96 to 103 thereof, under the terms of which contract said Bell Company employed said Electric Company to manufacture telephones, appliances and apparatus for it, said Electric Company agreed to sell to said Bell Company at cost all of its inventions in electrical speaking telephones then owned by it (the Electric Company), or to be thereafter acquired, and it was agreed that said Bell Company would employ no other manufacturer to make its instruments, etc., and said Electric Company would manufacture no instruments for any other than the Bell Company during the existence of the contract; that by said contract said Electric Company granted to said Bell Company the exclusive right to use, sell and license to others all the Electric Company's inventions whether patented or not, and said Bell Company granted to said Electric Company an exclusive license to make and sell telephonic appliances within the United States to licensees of said Bell Company only, and to them under the terms and provisions in said contract set forth; that on April 8, 1908, this contract was modified so that the Electric Company was permitted to sell telephone instruments, appliances, etc., to sublicensees and nonlicensees of said Bell Company within the United

States under such restrictions as said Bell Company from time to time imposed, and the evidence discloses that this modification of the original contract in actual practice permitted the Electric Company to sell the instruments, appliances and apparatus to certain nonlicensees of the Bell Company which did not in fact compete in the telephone business with said Bell Company or any of its licensees or sublicensees, but that two of the more important of the patented devices controlled by said parent company and manufactured by said Electric Company, to wit, the Pupin coil and the Shreve repeater, have not at any time been permitted to be sold or rented to persons or corporations other than licensees of said parent company; that the relationship which has at all time existed between said Electric Company and the parent company has been extremely close and that the executive and engineering departments of said two companies have been working in close co-operation; that said Electric Company has been virtually the manufacturing department of said Bell system and has been under the control and domination of the parent company; that said Electric Company in addition to the contracts above referred to with said Bell Company has purchasing contracts hereinafter more particularly described with nearly all of said Bell subsidiary companies, including the Union Company, defendant herein, under and by reason of the provisions of which said Electric Company is constituted the supplies purchasing agent and storekeeper for said subsidiary companies, whether such supplies be articles manufactured by said Electric Company and sold by it to said subsidiary companies or articles that are not so manufactured but which are bought by said Electric Company and then sold to said subsidiary companies.

14. That the relations that have existed between the Bell system and the Electric Company and the execution of the aforesaid contracts between the Bell Company and the Electric Company and between the Bell subsidiary companies and the Electric Company were part of the general plan of the Bell Company and its successor, the American Company, and further disclose a monopoly purpose on the part of said last named companies; that a purchasing contract of the character above stated was entered into by the Union Company with said Electric Company on January 1st, 1906, copy of which is set forth in the Stipulation of Facts, Article 46, pages 106 to 111 thereof; that said contract was later modified by a contract of August 1st, 1908, and accompanying letters to said Union Company from said Electric Company,

copies of which contract and letters are set forth in said Stipulation of Facts, Article 47, pages 112 to 126 thereof; that neither said contract of January 1st, 1906, or said contract of August 1st, 1908 (both of which were signed by said defendant Richardson on behalf of said Union Company), were submitted to the board of directors of said Union Company or authorized, ratified or approved by any action of said board, nor was either of said contracts submitted to the stockholders of said Union Company, and the defendant Richardson, president of said Union Company, had prior to the execution of said contracts been notified by the defendant Brownell, one of the directors of said Union Company, that he, said Brownell, was opposed to the making of any such contract, but said Richardson, in spite of such notice, went ahead and as president of said Union Company executed said contracts without submitting the same to said board of directors; that defendant Richardson held the contract after it was first proposed to him under advisement for two years in order that he might see its workings with the Chicago Company; that said contracts were not known to the original complainants in this cause prior to the investigation of the affairs of said Union Company instituted by their solicitors just before the filing of the original bill of complaint herein; that the other complainants excepting Schwamb and Ruth Day knew that purchases had been made from the Electric Company; that for all practical purposes the parent company is, and on the dates above referred to was, the owner of both the Electric Company and the Union Company and the execution by said Richardson of said contracts was in furtherance of and disclosed a monopoly purpose as aforesaid.

15. That in the year 1885 said Bell Company caused said American Company to be organized under the laws of the State of New York; that from that date until 1899 when said American Company became the parent company of said Bell system as aforesaid, all of the stock of said American Company was owned by said Bell Company, and said American Company was known as the Lone Lines Department of the Bell system and as such constructed and operated lines connecting the different territories of the aforesaid subsidiary companies, which lines, whether for long or short distance toll business, are hereinafter referred to as interterritorial lines for the transmission of telephone messages between such territories respectively; that said American Company on or about the first day of January, 1894, entered into a

written license contract with said Bell Company, a copy of which is set forth in said stipulation of facts, Article 19, pages 29 and 237 inclusive; that said American Company, in building said interterritorial lines into the territories of said subsidiary companies having defined territories as aforesaid, took over the handling of all messages between said territories respectively, and the building of such interterritorial lines and the taking over of such business by said American Company were for the purpose of further monopolizing the telephone business of the United States, and all competition between the interterritorial lines of said American Company and the lines of the subsidiary companies aforesaid was suppressed, and the contracts and arrangements in connection therewith restricted the performance by said local subsidiary companies of a service to the public and prevented said subsidiary companies from carrying on such interterritorial business.

16. That another means adopted by the Bell and American Companies to extend the influence of the Bell system in the telephone field was by the making of what are described in the record and are hereinafter referred to as sublicensee contracts; that these contracts were made by the Bell subsidiary or associated companies with independent telephone companies—(many of which sprang up immediately after the expiration of the aforesaid fundamental patents)—operating in the licensed territory of the respective Bell subsidiaries, and under these contracts the sublicensee companies were given the right to use the Bell instruments, and were permitted to make physical connection of their lines with the lines of the Bell companies, the sublicensees agreeing in these contracts to connect their lines exclusively with the lines of the Bell system companies; that in other cases the subsidiary Bell companies acquired the ownership of stock in independent companies; that in many cases the plants and property of independent companies were in various ways merged with the Bell companies' plants; that in some instances the Bell subsidiary company would sell a portion of its plant to the independent company and at the same time would enter into a contract with such independent company under the terms of which the latter would become a sublicensee; that in other instances the subsidiary company would purchase outright the plant of an independent competing company and it would thereafter become an integral part of the Bell system; that these sublicensee arrangements, mergers and stock purchases with independent companies were particularly evident in the

history of the Union Company and that many such transactions have been shown by the evidence in the case; that there is no doubt that in the early history of the Bell system much of its control of the telephone business of the country was acquired by reason of its ownership of the fundamental patents, but as time passed these stock controls and sublicensee arrangements became more and more effective and the patent rights less important in securing and maintaining its dominant position in the telephone field, and that the control of the Bell and American Companies over their subsidiaries, and particularly the Union Company, was evidenced in many ways other than those above indicated.

17. That at or about the time that said American Company became the parent company of said Bell system in 1899 as aforesaid, said American Company increased its authorized capital stock, which had theretofore been $25,000,000, to $75,000,000, and that such authorized capital stock was subsequently increased as follows: In the year 1900 to $100,000,000; 1901 to $150,000,000; 1903 to $250,000,000; 1909 to $300,000,000; 1910 to $500,000,000, and of this amount there was outstanding capital stock at the date of the filing of the bill in the amount of $318,000,000; that said American Company had also outstanding at the time of the filing of the bill some $159,000,000 of bonds or other capital obligations; that the great increase in the capitalization of the American Company from 1899 to the date of the filing of the bill was for the most part for the purchase of stocks and other securities of said subsidiary companies or making advances to said companies and of purchasing or otherwise acquiring the plants of theretofore independent telephone companies, and by these and other means of securing for the Bell system as complete a monopoly as possible of the entire telephone business of the United States; that at the time the bill herein was filed there were in round figures 10,000,000 telephone stations in the United States; that the number of stations which could be reached over the Bell system by reason of contracts and traffic arrangements with other companies amounted to 8,150,000, of which 5,500,000 were stations of the Bell companies; that a large percentage of the 4,500,000 stations which were owned and controlled by so-called independent interests (some 2,650,000 of which are connected by contract of one sort or another with the Bell system) were located in rural and sparsely settled districts; that the American Company had an almost exclusive control of the business in those parts

of the country where the population was densest and the business transacted was greatest.

18. That while the control of the parent company over this great industrial business was accomplished in the main by stock controls, there were many other important ways and means by which the control of the parent company was made more complete and effective; that in the early history of the Bell system the most important of these means was the granting to the Bell subsidiaries of the right to use the Bell patented instruments, made possible by reason of the Bell Company's ownership of the two fundamental Bell telephone instrument patents aforesaid; that after the making of the contract with the Western Union Telegraph Company as aforesaid the Bell Company, by reason of its ownership of these fundamental patents and the patents acquired from the Western Union Telegraph Company, had complete control of the telephone business until the year 1894 when these fundamental patents expired; that even from the earliest the promoters of the Bell system did not rely altogether upon patent rights of the parent company for the protection and perpetuation of its control of the telephone business; that even during the life of the fundamental patents the rights under such patents were uncertain and the promoters of the Bell system sought to get possession of the telephone business of the country in such a way that patent or no patent they could control it.

19. That the monopoly to make, use, vend, etc., certain devices for a limited time under the federal statute relating to patents is a statutory exception to the general common law rule against monopoly and gives to the patentee or his assignees a monopoly for seventeen years on the thing patented, but that this is as far as those rights extend; that they do not include the right to monopolize the doing of the service which may be performed, or the making of the thing which may be produced by the patented device; that the public welfare is not lost sight of in the granting of such exclusive privileges, and it was never intended that in conferring a patent monopoly a patentee might in his discretion disregard other and fundamental laws which exist for the protection of the public; that when the patented device is used in a public service the patent monopoly cannot be employed in such a manner as to foster a monopoly or suppress competition in violation of law beyond the monopoly rights which the owner and holder of the patent rights has in the

patented device; that the federal patent laws did not authorize the parent company to use its rights for the purpose of suppressing competition in violation of the laws of the State of Illinois, and neither did the patent rights acquired by the parent company confer upon it the privilege of monopolizing the telephone industry of the country, and did not and could not result in fastening upon the public a perpetual monopoly of a service that has become a public necessity; that the proprietor of a patent right has no power by leasing part of its rights in a patented invention to take in consideration therefor a stock control in a corporation named as lessee in such lease, and to use such stock control in an attempt to create a monopoly in the business in which such patented invention is used; that the question presented in this case is whether the thing received in consideration of a part of these patent rights, to wit, the stock in the Union Company, may be used in violation of the common law rules against monopoly; that the illegality of such stockholding appears in the nature of the consideration received by the parent company for its grants of the rights to use the patented inventions and the uses this consideration has been put to as well as the purpose of the parent company in accepting such consideration; that the monopoly purpose of the parent company in procuring its stock control of the Union Company is not excusable on the theory that the patent rights of the parent company furnished a part consideration for the license contracts; that if the parent company as the owner of the patent monopoly saw fit to take a stock control in the Union Company as a consideration for its transfer of a part of its patent rights, and if the law prohibits such stockholding by the American Company, then the American Company took nothing under the license contracts.

20. That the aforesaid illegal purpose of the parent company to suppress all competition in the telephone business and to acquire a country-wide monopoly thereof, appears further from the terms of the license contracts issued by the parent company to the several subsidiary companies; that the original license contracts issued shortly after the inception of the Bell system were generally for a short term of years, and as these short term contracts expired or were surrendered license contracts unlimited as to time were granted by the parent company to operating telephone companies, in return for which licenses the parent company received in most instances 35 per cent. of the stock of such operating companies, and the parent company generally acquired

shortly after the execution of such license contracts enough additional stock to give it a practical control over the several subsidiary licensee companies; that these license contracts served to control the intercorporate relations of the Bell Companies in many important ways for several years, and that although the operating officials of the Union Company referred to said contracts as being obsolete and out of date, it appears that the relative status of the Union Company and the Bell Company and its successor the American Company as fixed by the license contracts, has in most important particulars been maintained down to the present time; that there were three classes of these license contracts, to wit: those for exchanges, the form of which is set forth in the aforesaid stipulation of facts, Article 28, pages 46 to 54, inclusive; those for the so-called extraterritorial business, the form of which is set forth in the aforesaid stipulation of facts, Article 29, pages 55 to 64, inclusive; and those for the establishment of private lines, the form of which is set forth in the aforesaid stipulation of facts, Article 30, pages 64 to 71, inclusive; that the aforesaid exchange contracts limited the use of the telephones rented thereunder to certain prescribed telephone exchange districts and forbade the use of such telephones in the transmission of messages between points in such exchange district and points beyond the limits thereof; that the aforesaid extraterritorial contracts limited the use of the telephone instruments rented thereunder to so-called extraterritorial business, that is, business between said telephone exchange district and points outside the same, and forbade the use of said telephone instruments for the transmission of messages between any points within the same telephone exchange district; that said contracts for private lines limited the use of the telephone instruments rented thereunder to private lines as therein described; that said license contracts forbade the licensee or lessee becoming interested in any telephone company, lines or business not licensed by the licensor or lessor, and provided that the instruments leased could not be used in connection with any telegraph business except that of the Western Union Telegraph Company and required the licensee or lessee to charge subscribers to its exchanges such rental or royalty for the use of telephones as the licensor or lessor might fix from time to time, and fixed the minimum charge that the licensee or lessee would be permitted to charge the public for toll service; that said license contracts also provided that the telephone instruments so rented should not be used for the trans-

mission of general business messages, market quotations or news for sale or publication; that said exchange license contracts prohibited the use of the telephone instruments rented thereunder for transmission of telephone messages to points outside the defined territory granted to said licensees or lessees respectively, and required the lessee or licensee to turn over and deliver to the licensor or to such parties as it might from time to time appoint exclusively all messages for electrical transmission to points outside of the exchange district granted; that the aforesaid provisions of the license contracts which restrict the charter powers of the Union Company to transact a telephone business, and those provisions that limit the power of the Union Company to serve all members of the public without discrimination, and the provisions vesting in the parent company power to control the rates to be charged by the Union Company to its subscribers are all illegal and void; that the purpose of the parent company in making these perpetual license contracts, and securing stock in the subsidiary companies as the consideration therefor, was the carrying out of the aforesaid general plan to obtain for the parent company for all time control over said subsidiary companies and their business and to restrict said subsidiary companies in the performance of the public duties which they had assumed as public service corporations, and to suppress all competition between said subsidiary companies themselves and all competition between said subsidiary companies and said parent company or such licensee thereof as should be authorized to conduct interterritorial telephone business for the transmission of messages between the territories of the different subsidiaries, and to secure for said Bell system as a whole a perpetual monopoly of the telephone business of the United States.

21. That the parent company has at different times both prior to and since the expiration of the aforesaid fundamental patents in 1894 acquired other patents covering or relating to telephone appliances and equipment; that the parent company has required the different subsidiary companies to turn over to it or to said Electric Company all patents acquired by said subsidiary companies respectively, through the inventions of their engineers or others in the employ of the said subsidiary companies, without paying to said subsidiary companies any compensation for the patents so turned over, except such an amount as would reimburse the subsidiary companies for expenses actually incurred by them in connection with the procurement of such patents;

that all of said patents were available for the use of said subsidiary companies without payment on their part; that said Bell and said American Companies have acquired by purchase or otherwise a large number of patents taken out by independent inventors of telephone equipment and appliances, including many patents having to do with so-called automatic or semi-automatic telephone devices; that all of said patents were available for the use of said subsidiary companies without payment on their part; that all or substantially all of the patents acquired by said Bell Company and said American Company relating to telephone appliances, as distinguished from the telephone receiver, transmitter and induction coil, have been turned over to said Electric Company, but remain under the control of the American Company so far as use by the Bell system is concerned, and the costs of acquiring such of said patents as were used in the manufacture of the articles by the Electric Company have been charged into the costs of articles manufactured thereunder by said Electric Company and sold by it; that as heretofore stated, said Electric Company, the manufacturing department of said Bell system, was not permitted to sell on the open market any devices or appliances covered by any of the patents controlled by said Bell system as aforesaid prior to the year 1908 or thereabouts, and that since said date the article manufactured under the more important of the patents so controlled, to-wit, the Shreve and Pupin patents, have been sold or rented exclusively to Bell subsidiary companies and have not been sold on the open market; that the purpose of the Bell and American Companies in thus acquiring and retaining control over a large number of potentially competing patents was to suppress competition in the telephone business and to build up a monopoly; that if the development of the various appliances, instruments, apparatus, ways and methods used in telephony were left to the energy and genius of separate subsidiary organizations, a standardized, economical and efficient development of the telephone business would be impossible.

22. That the peculiar circumstances of the telephone business and its unusual history do not render it an exception to those rules of law which have been created for the protection of the public from any and all kinds of illegal exploitation; that the law is opposed to the creation and maintenance of a monopoly of a necessary public service; that the public policy of the State of Illinois is and prior to January 1, 1914, has been opposed to monopolies, and such is and has been the public policy of the United States; that said Bell system

above described constitutes, and has at all times since its inception constituted, a combination in restraint of trade and commerce, both intrastate and interstate, and has at all times been attempting to monopolize the telephone business of the United States, both intrastate and interstate; that such combination was at the date of the filing of the original bill herein, and at all times prior thereto had been, in violation of the laws and public policy of Illinois; that all contracts and arrangements with said Union Company and all stock ownerships in said company entered into or acquired by said Bell Company or said American Company for the purpose of creating or carrying out said combination or monopolizing said telephone business, are and at all times have been null and void and unenforceable by said Bell Company or said American Company.

23. That upon the organization of said Union Company by said Bell Company as aforesaid in the year 1883 the said Union Company succeeded to the business and property of three subsidiary Bell companies which had been organized under the laws of Illinois and had been doing business in the States of Illinois, Indiana and Ohio, to wit, the Central, Midland and the Western Telephone Companies, and said Union Company then succeeded by assignment to the license contracts which had previously been granted to said three companies respectively, and said Union Company issued to said Bell Company 35 per cent. of its stock, to wit, 29,162½ shares in exchange for the 35 per cent. of the stock of the Central, Midland and Western Companies which had previously been issued to said Bell Company as so-called franchise stock, that is, as part consideration for the granting of the aforesaid license contracts; that the Bell Company at or about the same date acquired in addition to the 35 per cent. of the stock above mentioned some 9,435 shares in the Union Company in exchange for stock in the three earlier companies aforesaid, but the record fails to disclose what if any consideration the Bell Company paid for the stock in the three earlier companies for which these 9,435 shares in the Union Company were issued as aforesaid; that a copy of the original stock subscription of the Union Company was placed in evidence, and it appears therefrom that the Bell Company subscribed for something less than a majority of the stock of the Union Company; that in or about January, 1884, the Union Company increased its outstanding capital stock and issued to the Bell Company, in accordance with the terms of its contract of June 30, 1883, set forth in said stipulation of facts,

article 26, pages 40 to 43, 35 per cent. of this stock, to wit, 1,156 shares, without receiving any consideration therefor; that said Bell Company acquired in some other manner not disclosed in the evidence some 762½ shares and in the year 1899 as aforesaid transferred all of its said shares in said Union Company, to wit, 33,316 shares, to said American Company; that thereafter in the year 1901 said American Company surendered, as did other stockholders, one-half of its holdings of stock to said Union Company, so that after surrendering said stock said American Company held in said Union Company 17,623-11/40 shares in said Union Company; that thereafter said American Company subscribed for 18,638-11/40 shares and paid for the same partly in cash and partly by the surrender of claims of indebtedness arising by virtue of the incorcorporate relations and transactions between said companies.

24. That since the year 1901 said American Company has acquired by purchase or by exchange of its own stock for Union Company stock some 14,000 shares of stock formerly belonging to minority stockholders of said Union Company; that part of the stock so acquired by said American Company was acquired through a campaign conducted by the defendant Richardson, then president of said Union Company, acting at the instance and as the agent of said American Company; that said campaign by said Richardson was conducted quietly on his part and without notice to the stockholders selling the stock of the fact that said American Company was the purchaser thereof; that the several purchases of stock made by said Richardson for said American Company were made at different prices ranging from $25 a share to $40 a share or thereabouts; that much of the stock acquired in the Union Company by said American Company was acquired by exchange of the stock of said American Company for stock of said Union Company; that in the first instance these exchanges were made on the basis of one share of American Company stock for 3½ shares of Union Company stock, and that later similar exchanges were made on the basis of three shares of American Company stock for eight shares of Union Company stock; that in connection with the making of such exchanges of stock said defendant Richardson expressed to defendant Bethell, senior vice president of said American Company, his regret that outside brokers were quoting a higher price for Union Company stock, because such quotations of higher prices would interfere with the work that said Richardson and said Bethell were undertaking to do

in securing for said American Company the stock in said Union Company; that Richardson, the then president of the Union Company, was using his efforts to procure the stock of the minority stockholders for the American Company and, as he himself expressed it, "for the protection of" said American Company; that his conduct was such that it is impossible to escape the conclusion that the interest of the minority stockholders in these transactions was of little or no consequence to him; that he (Richardson) was working in the interest of the majority stockholder to acquire the stock of the minority at the lowest price possible, and that he deprecated any news or happening which might tend to raise the price of this stock in the market; that said Richardson was guilty of a breach of the fiduciary relation he owed to said Union Company and the stockholders thereof in the aforesaid campaign for the elimination of the stockholders of said Union Company, and that those of the officers of said American Company who acted with Richardson in this matter, and were themselves directors of the Union Company, were also guilty of a breach of the fiduciary relation toward the minority stockholders of the Union Company; that at the date of the filing of the bill herein said American Company held an aggregate amount of 51,640-11/40 shares in said Union Company, having a par value of $5,164,000-11/40, being more than 94 per cent of the then outstanding stock of said Union Company, as is more particularly set forth in said stipulation of facts, article 25, pages 39 and 40 thereof and article 9, pages 9 and 10 thereof.

25. That before said American Company began the construction of any of its interterritorial lines in the territory of said Union Company as hereinafter set forth said Union Company had already constructed in said territory telephone exchanges in most of the towns and cities there located and a limited toll system connecting the same; that in the first instance the Union Company's toll lines so constructed were for the most part, if not entirely, of iron grounded circuits, as were the lines of other Bell subsidiary companies in the middle west and east of the Mississippi River at that time, and were not capable of transmitting telephone messages for a distance in excess of 50 miles; that after the advent of the trolley and the use of the electric light and high tension wires in the Union Company's territory, commercial conversation over grounded circuits was made difficult and the change from grounded circuit construction to metallic circuit construction was a condition precedent to the best trans-

mission either over Union Company lines alone or when used in connection with the American Company lines; that the transformation of these grounded wire circuit lines of the Union Company into copper metallic circuit lines began about 1892; that the lines of the American Company were from the beginning copper circuits; that the aforesaid transformation of the lines of the Union Company was carried out for two purposes, to make the plant of the Union Company more serviceable for the service of the Union Company and for the subscribers of the Union Company, and to make the plant of the Union Company available to its subscribers for the transmission of the long distance messages over its lines and the lines of the American Company; that much of the change in the Union Company's plant was the result of the growth of the art; that an appraisal of the Union Company's plant made in 1897 correctly describes the condition of the property at that time as follows:

"The first toll lines of the company were built many years ago, when the probable value of this feature of the business was an open question. The circuits were all iron-grounded, and poles were set seventeen to the mile with the idea that, should the business warrant better construction, alternate poles would afterward be set, making thirty-four to the mile. This was done to some extent but the development of the toll business has shown that much better construction is advisable than could be obtained by repairs and additions to the old lines. Accordingly there is a great amount of this old construction in places where modern toll lines are the only kind that can be satisfactory, and the old and inadequate construction is hardly worth keeping in repair. The company now has

Toll pole line	7561¼	miles
Toll wire	17,772	"

This 17,772 miles is divided as follows:

Copper metallic-circuit wire	7150	miles
Iron metallic-circuit wire	2375	"
Grounded circuit wire	8247	"

The total pole miles are divided about as follows:

Grounded circuit	5128	miles
Copper metallic-circuit	1695	"
Iron metallic-circuit	738	"

The pole lines of the American Telephone and Telegraph Co. (Long Distance Co.) run through the territory in several places, and on these lines the Central Union Co. have about 1700 miles of wire. The copper metallic toll lines of the company are, as far as could be seen, well built and in excellent condition."

That by the year 1900 the Union Company had over 32,500 wire miles of copper metallic circuit and 16,000 wire miles of iron metallic circuit out of a total of 50,500 wire miles of toll line; that the toll plant of the Union Company has since that date been extended and increased until at the time the bill was filed it amounted to approximately 96,100 miles of wire, practically all of which was metallic circuit and the greater part of which consisted of copper metallic circuits; that all of the copper metallic circuit lines of the Union Company were made of what is known as No. 12 wire.

26. That said American Company after its organization in 1885 began building interterritorial lines in the eastern part of the United States and in or about the year 1890 completed its New York-Chicago line as far west as Cleveland and in so doing crossed a portion of the territory of said Union Company in northeastern Ohio; that said New York-Chicago line was extended to Chicago in 1891 crossing the territory of said Union Company between Cleveland, Ohio, and Lake County in Indiana, which county forms part of the territory of the Chicago Company; that the construction of the lines of the American Company proceeded thereafter and in the year 1892 it completed its line from Maumee, Ohio, to Detroit, Michigan; in 1893 its line from Maumee, Ohio, to Cincinnati, Ohio; in 1894 its line from Terre Haute, Indiana, to Chicago, from Pittsburgh, Pennsylvania, to St. Louis, Missouri, from Buffalo, New York, to Norwalk, Ohio; in 1895 from Cincinnati, Ohio, to St. Louis, Missouri; from Chicago to Grand Rapids, Michigan; from Terre Haute, Indiana, to Nashville, Tennessee; in 1896 from Chicago to Davenport, Iowa, from Chicago to St. Louis, Missouri, from Niles, Michigan, to South Bend, Indiana, from Bloomington, Illinois, to Peoria, Illinois; in 1897 from Cuyahoga Falls, Ohio, to Charleston, West Virginia, from Indianapolis, Indiana, to Louisville, Kentucky; in 1898 from St. Louis, Missouri, to Mackenzie, Missouri; in 1901 its lines from Philadelphia to Chicago; in 1902 its lines from Cleveland to Columbus, Ohio, from Columbus, Ohio, to Cincinnati, Ohio; in

1903 its lines from Peoria, Illinois, to Burlington, Iowa; in 1905 its lines from Cincinnati, Ohio, to Chicago; from Chicago to Peoria, Illinois; in 1906 from Indianapolis to Kalamazoo, Michigan; in 1907 from Norwalk, Ohio, to Chicago; from Chicago to Dubuque, Iowa; from Pittsburgh, Pennsylvania, to Columbus, Ohio; from Louisville, Kentucky, to Bloomington, Illinois; that by the construction of these and other lines the American Company constructed a network of interterritorial lines running into and across the territory of said Union Company; that all of the lines so constructed by said American Company were copper metallic circuits and were of what is known as No. 12 or No. 8 wire; that many of the lines so constructed by said American Company were parallel to lines already constructed by said Union Company; that in many instances the lines of the American Company and the lines of the Union Company were located on the same highways and sometimes on the same pole lines; that connection between nearly if not quite all points in the Union Company territory could be made over the toll lines of the Union Company exclusively or over the toll lines of the Union and American companies connected; that a copy of the map identified in this proceeding as Union Company's Exhibit 12 and referred to in article 58 of said stipulation of facts is hereto attached, marked Exhibit B and made a part hereof and shows the routes of telephone lines of the American and Union Companies within the Union Company territory as they existed at the date of the filing of the original bill herein.

27. That the Union Company from its inception has sustained a competitive status in relation to the parent company and to other companies doing or authorized to do a telephone business in the territory served by the Union Company's lines, and that competition between the Union Company on the one hand and the parent organization and other companies on the other was and is illegally suppressed by the parent company through its control of the conduct of the Union Company's business; that it appears that the Union Company, from the date of its organization, by and because of the contracts entered into with the American Company was prohibited from entering into competition with any lines which might be built by the Bell or American Company or any other of the subsidiary companies of the Bell system; that the Union Company was also prohibited from connecting its lines with any so-called independent company, except with

the consent of the parent company, and until very recent years it was the policy of the American Company to prohibit such connection; that the power and authority which said Union Company had under its charter rendered it a competitor, actual or potential, of any and all other persons or corporations actually engaged in the same business in the same localities as itself; that the fact that the parent company, through its stock control of the Union Company or its ownership of the fundamental telephone instrument patents, saw fit to prevent the Union Company from freely exercising its charter powers, does not take from the Union Company its competitive status with relation to other companies having the power to do a telephone business in the territory served by the Union Company's lines; that the evidence in this case discloses a long continued purpose to suppress competition; that this purpose is evidenced by a series of contracts and arrangements between the American Company and the Union Company extending over a period of more than thirty years; that it is not a case of a single illegal contract or relation; that it is rather one where it is shown that competition in a public service business has been suppressed by an intricate and far-reaching attempt to monopolize the telephone business of the whole country.

28. That the subsidiary companies, including the Union Company, were means or agencies employed by the parent organization for the purpose of extending its telephone business throughout the United States; that according to the express declaration of the responsible officials of that company all questions of policy common to all the subsidiary companies, common matters which have an effect upon the system as a whole, were settled by the central administration of the parent company, and that it is apparent from all of the evidence that one mind has dominated the affairs and relations of these subsidiary companies; that while many of these relations are evidenced by the execution of formal contracts, there can be no doubt that these contracts were executed under the direction of but one dominant mind—that of the American or Bell Company; that the purpose of the parent company in acquiring the stock of the Union Company was part and parcel of a general scheme to control and monopolize the telephone business of the country; that this purpose is frankly expressed by the witnesses Fish and Vail, and elsewhere abundantly appears in the record in the case;

that the responsible managers of the parent organization had but to indicate their opinion to have such opinion taken by the subsidiary companies' officers as directions; that this was true in the relations of the Bell and American Companies with the different subsidiaries, and particularly so in the case of the Union Company; that the board of directors and responsible officers of the Union Company were never consulted by the majority stockholder, the parent company, and that the board of directors of the Union Company had practically nothing to do in the formation of the policies of the Union Company; that the Union Company's directors had but little to do with the approval of its most important contracts and relations, and that they have failed to act in any way upon many questions and matters that are ordinarily left to the judgment and direction of the board of directors; that in this case the majority stockholder actually conducted the business of the corporation and the Union Company was only nominally represented in the conduct of its affairs, including the making of contracts with the parent company; that the officials of the Union Company must have continually appreciated the fact that the real master in the involved and intricate relations existing between these companies was the American Company or Bell Company, and when called upon, as they frequently were, to pass upon matters of great importance, where the interests of these companies were not identical, it would not be surprising if the parent company did get the better of the bargaining; that a majority of each of the several boards of directors of the Union Company has at all times since the organization of that Company been under the influence and domination of the parent company; that among the other numerous facts in the record showing the control exercised by the American Company over the Union Company is the creation of the so-called central group of Bell operating companies, consisting of the Union, Chicago, Wisconsin, Michigan and Cleveland companies, with headquarters at Chicago; that as a result of the adoption of the group system the Union Company's plant was for operating purposes merged with those of the other four companies above named and the general expenses of the group were apportioned among the five companies; that the same individuals were elected officers of each of these five companies as above stated; that the correspondence between Sunny and Bethell, as well as other evidence in the record, shows that this important action was taken as a result of

the control of the American Company over the Union Company's affairs, and that the stockholders of the Union Company were not advised or consulted with reference to the matter; that it appears from an annual report of the American Company introduced in evidence that a pension plan for the employes of the Bell Companies was adopted by the American Company and all of the subsidiaries, including the Electric Company and the Western Union Telegraph Company; that for certain of the purposes of this plan the employes of each of these companies are considered as being in the service of the Bell system as a whole, so that an employe was entitled to count his time of service in each of the different Bell Companies in determining his right to a pension under this plan.

That the court does not hold that the principal officers of the parent company at any time believed that their conduct was dishonest or immoral; and the court holds that the illegality and the unfairness of this conduct were no doubt the result of an imperfect knowledge of the law and a too intense devotion to a realization of the fundamental purpose which was adopted as a basis for all the actions of the parent company; that it is frankly admitted that the purpose and intent of the parent company was and is to control under one central organization all of the telephone business of the country and this monopoly purpose has in a large measure been effected by the parent company in two ways, first, by engaging directly in a telephone operating business, and second, by acquiring and holding stock control in many subsidiary companies throughout the United States; that in giving effect to this principal purpose of the parent company the legal rights of the minority stockholders of the Union Company were in many important ways lost sight of, and that it is fairly deducible from all of the evidence in this record that the Union Company has been regarded and treated merely as an auxiliary or feeder to the parent company's lines.

29. That under the law of Illinois as it existed at the date of the filing of the original bill of complaint and at all times prior thereto an Illinois corporation could not own a controlling stock interest in another competing company, and under Section 26 of the General Incorporation Act of Illinois a foreign corporation such as the American Company is made subject to all the liabilities, restrictions and duties that are imposed upon Illinois corporations of like character organized under this act, and it is therein provided that such foreign

corporations "shall have no other or greater powers"; that corporations of a character like that of the American Company can be organized under the General Incorporation Act of Illinois for the purpose of conducting a telephone business; that in fact the business conducted by the Union Company, an Illinois corporation, is in large part at least of like character with the business conducted by the American Company; that the purchase of the stock control of the Union Company by the American Company was illegal because of a lack of power in said American Company under the aforesaid Section 26 of the aforesaid Incorporation Act of Illinois to own said stock control; that the holding of said stock control by said American Company was also illegal *per se* because of the inevitable tendency of such stock control to stifle competition between said Union Company and said American Company, and to create a monopoly of the telephone business; that the American Company's stock control of the Union Company was also illegal for the reason that the stock of the Union Company was acquired by the parent company for the illegal purpose of controlling the Union Company, of suppressing competition, and of creating a monopoly of the telephone business; that in addition to the above grounds for holding the stock control of the American Company in the Union Company illegal and void, it was contended on the part of the complainants that the stockholding by the American Company in the Union Company was illegal for two additional reasons: First, that its acquisition was in violation of the Federal Anti-Trust Act of July 2, 1890, known as the Sherman Law, and second, that the American Company had no power under its charter or the laws of the State of New York to own stock in an Illinois corporation. But the court holds that in view of the conclusions above set forth upon the general question of the illegality of such stockholding, it is not necessary for the court to pass upon either of these two additional reasons urged by the complainants in favor of the illegality of such stockholding, and for the purposes of this decree it is assumed, without being decided, with reference to the last of the two contentions aforesaid, that the American Company had under its charter and the laws of New York an express power to hold and own such stock; that the passage of the Illinois act to provide for the regulation of public utilities approved June 30, 1913, in force January 1, 1914, cannot render valid the stockholding of the American Company in the Union Company which had been acquired previous to the passage of the act and had been illegal and void

from the beginning; that the public policy of the State of Illinois with relation to public utilities has been changed by the passage of this act from a policy against monopolies to a policy in favor of regulated monopoly or regulated competition, depending upon the circumstances of each particular case, to be determined under the law by the exercise of the sound judgment of the commission created by the act itself; that the passage of this act did not have the effect of legalizing the control by the American Company, a foreign corporation, of the Union Company, an Illinois competing corporation, that control being acquired by the American Company as incident to a purpose to monopolize the telephone business of the country.

30. That as is hereinafter more particularly set forth, the parent company has entered into different intercorporate contracts, relations and arrangements with the Union Company, and the court holds that even if it were assumed that the parent company's stockholding in the Union Company was legal, still said parent company as the majority stockholder in said Union Company would have no more right to control the Union Company against the interests of the minority stockholders and for its own benefit than would a majority of the board of directors of said Union Company have a right to control its affairs for their own benefit; that so long as a legal majority stockholder in a corporation is not dealing with that corporation either directly or indirectly, the action taken will generally be for the interests of the stockholders only, and hence will be in the interest of all stockholders, but that the duty as trustee for the minority stockholders arises whenever the majority stockholder deals with the corporation; that dealings between such majority stockholder and its corporation may be set aside at the instance of a non-assenting stockholder; that on the whole record in this case the parent company must be regarded and treated as a fiduciary with relation to its transactions and dealings with the Union Company; that this result necessarily follows from the findings concerning the parent company's control over the Union Company.

31. That the license contracts issued to the Union Company as aforesaid authorized the use of Bell patented instruments in specified districts only and provided that no line or exchange of the licensee company (Union Company) was to be connected with any points outside of said specified territory except by the lines of the licensor or its specially desig-

nated licensee; that telephone instruments furnished under said contracts to the licensee were to be used only on circuits exclusively composed of lines of the licensee or of the licensee and the licensor and its other licensees; that the contracts required that all messages originating in said limited territory of said licensee for points outside such territory were to be delivered for transmission to said licensor or to such parties as said licensor might from time to time appoint and said licensor reserved the right to enter the licensee's exchanges and connect its lines from points outside the territory of the licensee to points within the licensee's territory; that the evidence discloses that the parties to said license contracts have adhered to the territorial limits fixed in said license contracts.

The court holds that to the extent that these license contracts limit or restrain the exercise by the Union Company of the charter powers of that company to conduct a telephone business, these license contracts were invalid, but the court is unable to apply a rule for an accounting of the damages if any that have accrued to said Union Company by reason of the territorial limitations upon the extension of its lines that would approximate justice between the parties to said contracts, if it be conceded that injustice and injury has been done by the territorial limitations fixed by these contracts; that in order to entitle a party to an accounting it is not sufficient that the conduct of one of the parties has been illegal and oppressive and that some injury and damage has thereby resulted to the other party; that it must further appear that it is, within reason, possible for the court to afford the injured party a remedy; that to arrive at even an approximate estimate of what the result was to the Union Company of the territorial restrictions aforesaid, does not at this time seem to be possible, and the court will not attempt to do the impossible, and therefore the complainants will be denied an accounting of any damages alleged to have been suffered by the Union Company by reason of the limitations on the building of its lines to the specific territory described in said contracts.

32. And the court doth further find that the original license contracts made between the Bell Company and the Central, Midland and Western Companies, predecessors of the Union Company, permitted and licensed the use by said Central, Midland and Western Companies of the Bell patented instruments within certain specific districts and provided that no line or exchange of the licensee company was to

be connected with any points outside of this specific territory except through the lines of the licensor or lines of licensees from time to time specifically designated by the licensor, and that telephone instruments furnished under the said contracts were to be used by licensees only on circuits exclusively composed of lines of the respective licensees or of such licensee and the licensor and its other licensees, and that said contracts required that all messages originating in this limited territory of the licensee for points outside such territory were to be delivered for transmission to the licensor, and the licensor reserved the right to enter the licensee's exchanges and connect its lines from points outside the territory of the licensee to points within the licensee's exchange system; and the court further finds that the said Bell Company had the legal right to restrict the use of its patented devices but that in exercising such right it had no power to impose restrictions upon public service corporations in the exercise of the duties which such company owed to the public, and that so far as the said license contracts limited the right of said Union Company, or its predecessors, to use the Bell inventions said contracts were not invalid, and to the extent that they limited or restrained the exercise of the charter powers of said Union Company, or its predecessors, to conduct a telephone business, said contracts were not valid; and the court further finds that the said restrictions imposed by said license contracts did not result in the destruction of any existing business of said Union Company or its predecessors; and the court further finds that the peculiar nature and the history of the telephone business, the relations of the parties to the said contracts, and the long lapse of time render it impossible for this court to fix any rule for an accounting in relation to the matter of said restrictions imposed by said license contracts in so far as the same relate to the business transacted beyond the limits of the Union Company's territory, which would not be based upon matters of mere guess work or conjecture, and that to arrive at even an approximate estimate as to what the result was to the Union Company of said territorial restrictions would not be possible, and the court will not attempt to do the impossible, and the court finds that no accounting should be ordered or had in relation to the matter of said territorial restrictions.

33. That some of the lines of said Union Company constructed as aforesaid connect and for many years last past have connected at the boundary of said Union Company's

territory with the lines of the several Bell subsidiary companies respectively operating in the adjoining territories; that in such instances it has been possible by reason of such connection to transmit telephone messages directly from points in said Union Company's territory to points in such adjoining territory over such lines of said Union Company and such Bell subsidiary companies operating in the adjoining territories respectively; that said American Company, by reason of the control which said American Company has at all times exercised over the affairs and operations of said Union Company and of the other Bell subsidiary companies operating in such adjoining territories respectively has caused all such business to be routed over lines of said American Company exclusively or in connection with lines of said Union Company and other subsidiary companies and in the manner hereinafter pointed out so as to give the lines of said American Company the longest haul possible of such business; that in all instances the routing of messages and the arrangements put in force by said American Company have prevented all competition between the lines of said American Company and the lines of the subsidiary companies.

34. That on February 15, 1894, a contract entitled "memorandum of proposed agreement," hereinafter referred to as the 100-Mile Contract, was entered into between the American Company and the Union Company, copy of which contract is set forth in the aforesaid stipulation of facts, article 51, pages 134 and 135 thereof; that said 100-Mile Contract provided among other things that said Union Company should waive its right to do business between many large cities in the middle west lying just outside the Union Company's territory and points in Union Company's territory, and also granted to said American Company the right to do business between all points within the territory of the Union Company 100 miles or more apart reached by the copper metallic circuit routes then owned or projected by said American Company as shown by a certain diagram exhibit therewith or by the above mentioned metallic circuit lines of said American Company in connection with the lines of said Union Company; that it appeared at the hearing that said diagram referred to in said contract had been lost; that in actual practice the parties to the contract have regarded this 100-mile provision as prohibiting the Union Company from transacting this more than 100-mile business throughout the whole of the Union Company's territory; that said contract was

never authorized by the board of directors or stockholders of said Union Company and was not known to the original complainants herein until the aforesaid investigation was instituted by complainants' solicitors just prior to the filing of the original bill of complaint; that the only action taken by the directors was as follows: at a meeting held January 18, 1905, President Richardson presented a report which was accepted and approved by the board, which said report contained *inter alia* the following:

> "Several years ago, under the presidency of Mr. Henry B. Stone, an agreement was entered into by this Company with the American Telephone and Telegraph Company which provided that within the territory of the Central Union Company the American Telephone and Telegraph Company should do the toll business beyond certain prescribed limits. The agreement was a tentative one and provided that it might be abrogated by either party on ten days' notice from one to the other. The necessity for this agreement arose from the fact that the Central Union Company was not in a position to furnish the Long Distance service required by the public within its own territory, and its plant has since that time been extended and built upon the theory that the two companies acting harmoniously, upon proper lines, it would be more profitable for the Central Union Company to handle the short haul, wherever practicable, than to attempt to build the lines necessary to do a commercial business between the extremes of its territory. The advisability of continuing this agreement has been questioned by officers and stockholders of the Company from time to time during the past ten years and each new administration, during that period has taken this question up anew and considered it very carefully, with the result that the agreement is still in force. I am of the opinion that the conclusion of each of my predecessors, to let the agreement stand, was unquestionably logical and to the best interests of the Central Union Company, and that it should continue unless the stockholders are willing to furnish the money needed to build these long lines and take all the risks of insufficient returns therefrom. To put the Company in a position to carry all the business within its territory would require the expenditure, immediately, of several million of dollars, which could be much more economically expended and with

greater returns to the company by the erection of toll lines one hundred (100) miles or less in length, farmers' lines and new exchanges. Many of these short lines must be erected and the farmers are very generally demanding telephone service in connection with the nearest exchange. The Company must be prepared to furnish this service as rapidly as possible to preserve the integrity of its plant."

that in the making of said contract the parties thereto were not acting independently and this contract was merely formal; that there was in fact but one real party to said arrangement and that party was the American Company; that said 100-mile contract upon its face appears to have been one of fundamental importance to the Union Company; that while the long distance telephone business in 1894, the date of the contract, had not developed to a point where it could be demonstrated that it was or would become a profitable one, still with such knowledge as was then had by the men who controlled the Bell system it is evident that they felt at least that the possibilities of that business were such that they could afford to initiate a program of long lines building which would require a large capital investment; that up to the year 1894 the Union Company had transacted practically all of the telephone business in the territory which had been allotted to it under the license contracts; that with such equipment as the Union Company then had, it is clear that it could not have commercially transacted its business for distances greater than 100 miles, though it was well known even then, because of the rapid development in the art of telephony that telephone messages could commercially be transmitted for distances equal to that from any one point in Union Company territory to any other point in said territory; that the time when this contract was entered into was a critical one in the history of the Union Company; that the patent rights on the fundamental telephone inventions were about to expire and as a consequence a period of competition was inaugurated by independent telephone interests; that prior to 1896 the Union Company had been paying reasonable dividends on its stock and it was well equipped to carry on an exchange business; that had it been provided with officers and directors who would or could have conducted the business in its own territory in the interest of the Union Company solely, it might have been demonstrated that the making of the 100-mile contract was

not in the best interest of the Union Company; that this contract was not entered into by the officials of the Union Company with an eye single to the best interests of the stockholders of that company; that underlying this arrangement was the purpose of the parent company to dominate the telephone business of the country and to subordinate the interests of the Union Company to the welfare of the Bell system as a whole; that while said contract is terminable according to its terms on ten days' notice, no genuine attempt for the abrogation of this contract was ever made by the officers of the Union Company; that just what investigations were made by the officers of the Union Company or upon what facts they based their opinion that was favorable to the 100-mile contract does not appear in the evidence in this case.

35. That in the actual operations of the companies under this contract it has become the practice, as shown by extensive correspondence, to disregard the 100-mile contract in special cases depending upon the condition of the business and lines in particular localities; that in many cases it was found advisable to permit the Union Company to transact some business between points more than 100 miles apart; that in other cases the American Company was permitted to transact business over its lines between points less than 100 miles apart; that in a very large number of cases the Union Company's request to be permitted to do business between points more than 100 miles apart was refused by the American Company on the theory that the American Company had the right to do all of this class of business; that the Union Company under its charter had the power to do a telephone business throughout the country and it had no legal power to enter into any contract or relationship which would tend to limit or restrict this charter power; that this does not mean however that the Union Company was under any obligation to transact a telephone business throughout the country, but said Union Company had the power from the date of its organization to transact a telephone business in every part of its territory and could have built toll lines, either long or short, and have established exchanges in any manner and to any extent that in the judgment of its officers would have best conserved the interests of the Union Company stockholders; that under this 100-mile contract the Union Company has given up to the American Company the transaction of business in certain parts and along certain routes in its (the Union Company's) territory, which under judicious management would have been profitable to the

Union Company had it retained the doing of such business to itself; that had the business of the Union Company from the beginning been developed as a single business without relation to any interest that the parent company might have in the doing of that business, it is clear that the Union Company with profit could have transacted a large volume of business which was in fact given over to the parent company; that it is obvious that to determine with any degree of certainty the total loss to the Union Company by reason of this arrangement would be an impossible task, but it is not by any means certain that some of the losses occasioned by the turning over of this business to the American Company cannot be determined.

The court holds that an accounting should be rendered by the American Company to the Union Company in those cases where evidence is submitted which will enable the court to approximate the loss and damage, if any, to the Union Company by reason of the 100-mile contract, and this accounting should include only a consideration of so much of the long distance business under the terms of the 100-mile contract as was actually transacted in the Union Company's territory by the American Company, and which with profit to itself could have been transacted by the Union Company on its then existing lines with slight changes therein.

36. That under the provisions of the license contracts issued to the Union Company as aforesaid it was provided that said Union Company should receive upon communications originating within an exchange and passing over the lines of the exchange and the extraterritorial lines by direct connection, 15 per cent. of the gross tolls on the extraterritorial line (meaning the extraterritorial lines of the licensor company or such party as it might appoint) not to exceed 5 cents for any one message occupying not more than five minutes; that a contract referred to as the "operating contract" was entered into between the American Company and the Union Company on November 2, 1891, a correct copy of which is set forth in said stipulation of facts article 50, pages 128 to 132 thereof under which contract the Union Company was to perform certain services in and about the operation of the American Company's lines; that at this time the long distance lines of the American Company had reached from the City of New York to the City of Youngstown, Ohio, in the Union Company's territory; that the originating commission provided in said operating con-

tract of 1891 to be paid said Union Company was 15 per cent. not exceeding 10 cents for any single connection and a double commission on calls from pay stations; that on May 11, 1909, said American Company notified said Union Company of an increase in the commissions payable under the operating contract aforesaid from 15 per cent. not to exceed 10 cents to 15 per cent. not to exceed 20 cents for a single connection and double commission on calls from pay stations; that this increase was not to apply in cases where the American Company's L operators were in charge of the communications; that these L operators of the American Company were in fact at only five points in the Union Company's territory and said Union Company employed and paid the local operators handling said long distance messages at said five points and at all other points employed and paid both the long distance and local operators that the services performed by said Union Company in connection with the origination and delivery of messages handled jointly by said American Company and said Union Company as aforesaid consisted of services of both local and long distance operators at the exchanges as aforesaid, canvassing for and securing of telephone subscribers, use of its local exchange and subscribers' station equipment and local subscribers' lines, the collection of the joint tolls for messages so handled, the accounting to the American Company for its proportion of the revenue so collected, and other miscellaneous services; that in the year 1908 the American Company changed its policy so as to permit its subsidiary companies to connect their lines with independent companies not using Bell instruments; that in 1913 there were some 20,000 of these independent telephone companies in the country and that since that date eight or ten of these have been willing to connect their lines with the lines of the Bell system without receiving or charging any originating commission therefore and have been willing to pay for the privilege of this connection; that as a matter of convenience and to save labor and expense in the computation of the amount which the Union Company was to receive on account of originating commission, the following method was adopted: A month was chosen and a precise computation made for that month; the amount of the commission due was then divided by the gross number of messages during that month and a unit figure ascertained which was adopted as a factor for the ascertainment of the originating commission in succeeding months by multiplying the number of gross messages by the

given factor; that this rate per message varied for the different years following the year 1891; that the rate was 12 cents up to December, 1899, 11 cents from December, 1899, to May, 1904, 10.04 cents from May, 1904, to May, 1909, 11.79 cents from May, 1909, to October, 1911, 11.87 cents from October, 1911, to June, 1912, and 13.08 cents thereafter.

37. That said operating contract of 1891 entered into by said Union Company as aforesaid, was never authorized, ratified or approved by either the board of directors of said Union Company or by any meeting of the stockholders thereof; that it is obvious that this contract was the result of an agreement to which there was really but one dominant will, that of the American Company; that said contract and the arrangements and practices that have been in force between said Union Company and said American Company for the joint handling of said telephone business and the payment to said Union Company of an originating commission as aforesaid, were entirely unknown to the original complainants in this cause prior to the date when their solicitors began the investigation of the affairs of said Union Company in the month of January, 1913; that viewed in the most favorable light to the American Company said arrangement for the joint handling of messages should be regarded as a partnership agreement between said American Company and said Union Company and the revenue derived from the doing of said business should be fairly apportioned between the two companies in accordance with the cost to each of operating the business, and the capital investment of each company in the lines, equipment and apparatus actually used in connection with said business.

The court holds on the whole evidence that the provisions of the contract of 1891 under consideration and the practice and methods of the parties under them were not fair to the Union Company; that no evidence is contained in the record as to the expense or profits to the American Company from the doing of this joint business; that the Union Company did not profit by this arrangement is almost certain; that during the year 1912 the Union Company rendered this service to the American Company for less than actual cost; that an accounting should be taken for the purpose of ascertaining what would be the fair allotment to the Union Company by reason of the services rendered by it to the American Company in originating and delivering messages handled jointly over its lines and exchanges and the lines of the American Company, and that the Union Company should be credited

with such sum as may on an accounting be found to be a fair and equitable originating commission charge.

38. That other provisions of the license contracts aforesaid provide for the payment to the Union Company of what are called prorates; that is, in addition to the originating commission aforesaid there was allowed under the contract to the Union Company a certain amount based upon the actual toll line haul over the lines of the Union Company of this joint toll business; that the amount to be paid was in practice determined as follows: A percentage was ascertained by dividing the actual amount due for one month by the total revenue from the American Company messages and this percentage was thereafter used as a labor saving method of computation; that if the adequacy of this remuneration is to be determined by a comparison of the amount paid to the Union Company per message mile with that which was received by the American Company per message mile for the service rendered, the evidence unquestionably shows that the Union Company has no good reason to complain; that as the parties to this arrangement, to wit, the American Company and the Union Company, are to be regarded in effect as partners in this joint traffic business, it is clear that the revenue to be allotted to each of the partners should be determined on the principles indicated above in the case of originating commissions; that the evidence shows that the Union Company is paid for the actual message haul measured by the pole wire mileage used upon its line; that the Union Company receives from the American Company a higher rate per mile on the joint message that it receives from its own customers in its short toll line business, and also more than is paid per mile to the American Company for its share of the total sum received for joint messages less the originating commission; that, so far as the evidence in the record aids in determining this question, the Union Company cannot be said to be defrauded because of this arrangement, but keeping in mind the fiduciary obligation of the American Company and the lack of any evidence in the record tending to show the cost to the American Company or its profits in the doing of this joint business, an accounting will be directed as to the fairness of the prorate allowance to the Union Company.

39. That pursuant to arrangements that have been in effect between said Union Company and said American Company ever since said American Company built its lines into the territory of said Union Company and connected there

with the lines of the Union Company, it has been the universal practice to divert messages handled jointly by said Union and American companies from the lines of said Union Company to the lines of said American Company at the junction point which would give said American Company the longest possible haul of such messages; that this practice has been applied both to the interterritorial business above described and to the more-than-100-mile business between points in the territory of said Union Company as above described; that the effect of such routing arrangements has been to reduce the proportion of the revenue derived from such joint messages that comes to said Union Company by reason of the aforesaid so-called prorate paid to said Union Company by said American Company; that said routing arrangements by which messages were diverted from the lines of said Union Company to the lines of said American Company were never authorized or approved by the action of the board of directors or stockholders of said Union Company except as found in paragraph 34 hereof, and were not known to the original complainants herein until their solicitors began their investigation as aforesaid of said Union Company's affairs just prior to the institution of this suit. The Court holds that an accounting of this matter should be granted as hereinafter more particularly set forth.

40. And the Court further finds that there has existed between the Union Company and the American Company a reciprocal agreement by which each company paid to the other ten cents for each attachment of the wire of one company placed on the pole lines of the other; that the Court in the hearing of this cause has heard much evidence pertaining to this arrangement and agreement, and to the propriety of the amounts paid for such attachments, and the Court finds therefrom that neither the Union Company nor its stockholders have been defrauded by reason of these agreements and arrangements and the amount paid thereunder, and the prayer for an accounting in respect to the pole line attachment agreements is denied.

41. That the so-called leased wire business is principally brokerage and newspaper service and exists largely between the large commercial cities in Union Company's territory and in the territory of adjacent Bell lincensees, much the larger part of which was conducted in Union Company's territory by and over the lines of the American Company; that said business has in recent years become a source of considerable revenue to the American Company.

The court holds that it cannot be determined from the present record whether this leased wire business could have been profitably done by the Union Company, or whether the taking over by the American Company of the larger part of it did in fact constitute unfair treatment of the Union Company, but applying the principle that the fiduciary must account as to his conduct in relation to the business of the dependent, an accounting will be directed with reference to this subject.

42. And the Court doth further find that on March 7th, 1876, and January 30th, 1877, Letters Patent were issued by the United States of America to Alexander Graham Bell, granting to him patent rights covering the use of the telephone; that said patents and all rights thereto attaching were afterwards sold and conveyed by said Alexander Graham Bell to the Bell Telephone Company, a corporation; that thereafter said patents and all rights thereto attaching were sold and conveyed by said Bell Telephone Company to the National Bell Telephone Company, a corporation; that thereafter said patents and all rights thereto attaching were sold and conveyed by said National Bell Telephone Company to the American Bell Telephone Company, a corporation; that thereafter on December 11th, 1899, the American Bell Telephone Company sold and conveyed to the American Telephone & Telegraph Company, a corporation, one of the defendants herein, all its patents and patent rights, all its rights to any and all inventions now made or hereafter to be made to which it might be entitled under any contracts or otherwise howsoever; although the legal title to certain of said patents was still held in the name of the Bell Company for the use of said American Company; that on August 18th, 1881, said Bell Company, then the owner of said patents and all rights thereto attaching, granted to the Midland Telephone Company, a corporation, the right, privilege and license to use instruments covered by the said patents within the territory of said Midland Telephone Company; that said Bell Company, then the owner of said patents and all rights thereto attaching, on March 1st, 1882, granted to the Central Telephone Company, a corporation, the right, privilege and license to use instruments covered by the said patents in the territory of said Central Telephone Company; that said Bell Company, then the owner of said patents and all rights thereto attaching, on March 1st, 1882, conveyed to the Western Telephone Company, a corporation, the right, privilege and license to use instruments covered by the said patents

in the territory of said Western Telephone Company; that the said Midland, Central and Western Telephone Companies, all Illinois corporations, were then doing a telephone business in the States of Illinois, Indiana and Ohio; that thereafter on June 5th, 1883, the Central Union Telephone Company, one of the defendants herein, was organized as an Illinois corporation for the purpose of taking over, purchasing and consolidating the said Midland, Central and Western Telephone Companies and for the purpose of acquiring the exclusive right to use patented instruments, privileges and licenses of the said Midland, Western and Central Telephone Companies, and that thereafter the said Union Company did take over, purchase and acquire all the properties and the exclusive right to use patented instruments and all licenses and privileges theretofore granted by the said Bell Company and owned by the said Midland, Central and Western Telephone Companies; that the licenses theretofore granted by the said Bell Company to said Midland, Western and Central Telephone Companies, respectively, were assigned to said Union Company, and that the Union Company then undertook and agreed to assume and to carry out all the obligations of the said Midland, Central and Western Telephone Companies, respectively, to the said Bell Company as licensor; that under the original contracts of 1881 there was provided a charge to the Union Company's predecessors for the rental of telephone instruments, as follows: "That the exchange should charge its subscribers $10 per year for each battery transmitter and $10 per year for each magneto telephone or $20 for the set"; and it was provided that of this $20 the exchange should pay to the licensor as rental and royalty 70 per cent.; that as a result of this the licensee company paid $14 per set to the licensor company and retained $6 of the $20 per set paid by the subscriber; that certain services of an engineering, accounting, auditing, legal and financial nature were furnished to the said Midland, Central and Western Telephone Companies, respectively by said Bell Company, their licensor, and no payment was ever made of any amount as compensation for such services; that new license contracts, dated July 1, 1887, embodying similar terms were entered into by said Union Company and said Bell Company in lieu of and to take the place of the said license contracts theretofore made between the Bell Company and the said Midland, Central and Western Telephone Companies, respectively, which had been assigned, as aforesaid, to said Union Company; that said Union Company in and by said

license contracts and agreements undertook and agreed to pay as royalty for the right and privilege of using instruments covered by the said patents and as rental for the use of instruments manufactured under said patents and furnished to said Union Company by said Bell Company the net sum of $14.00 per set of instruments per annum; that certain services of an engineering, accounting, auditing, legal and financial nature were furnished by said Bell Company to said Union Company, and that no compensation was ever paid therefor by said Union Company to said Bell Company unless payments made under the license contracts be regarded as covering such compensation as hereinafter set forth; that thereafter on December 11th, 1899, all patents and all rights thereto attaching belonging to the Bell Company, were sold and conveyed by said Bell Company to said American Company, one of the defendants herein, although the legal title to certain of said patents was held in the name of the Bell Company for the use of the American Company; that the said license contracts then existing between said Bell Company and said Union Company were then transferred and assigned by said Bell Company to said American Company; that thereafter the amounts due from said Union Company for use of instruments covered by the said patents and rental for said instruments manufactured under said patents were paid to said Bell Company; that the telephone instruments that have from time to time been furnished to the Union Company under the provisions of the original license contracts and the 4½ per cent. modification thereof have at all times been the property of the Bell Company aforesaid; that all contracts and circulars modifying said license contracts have been made or isued in the name of said Bell Company; that the payments under said contracts have at all times been made by said Union Company to said Bell Company; that since the year 1900 all of the stock of said Bell Company has been owned as above set forth by said American Company, but the corporate organization of said Bell Company has at all times been maintained; that there is no substantial difference (between the Bell Company and the American Company) so far as this question is concerned, and the names are used interchangeably; that there was in legal effect no difference between the two companies, and the rights of the one were the property of the other; that thereafter said American Company furnished to said Union Company the engineering, accounting, auditing, legal and financial services, and received as compensation therefor no payments whatever unless pay-

ments made under the license contracts be regarded as covering such compensation as hereinafter set forth; that thereafter the said payments per set of instruments per annum were at various times reduced until in the year 1902 they amounted to $1.50 per set of instruments per annum; that effective January 1st, 1902, an agreement was entered into between said Bell Company and said Union Company by which payments thereafter to be made should be four and one-half per cent. of the gross earnings of said Union Company and four and one-half per cent. of a portion of the total gross earnings of companies in which the Union Company acquired an interest, proportionate to its interest in said companies, in lieu of and instead of the payment of a fixed amount per set of instruments per annum; that this arrangement resulted from an offer made by the Bell Company to the Union Company on November 21, 1902; that this offer was accepted by all the subsidiary companies including the Union Company as a basis for the payment of rentals to the Bell Company; that on December 16, 1912, a further relatively unimportant modification was made; that the Union Company is not now in a position legally to complain of the charges made for these rentals and royalties prior to the modification of the contract in the year 1894; that the Bell Company as the owner of these fundamental patents had the legal power to fix the rentals, royalties and rates which the Union Company paid prior to 1894; that upon the expiration of these patents, active competition began in the manufacture of telephone instruments; that beginning with that date or a short time thereafter, the Union Company could have gone into the open market and purchased telephone instruments reasonably adequate for its purposes; that under these license contracts the Union Company and other Bell subsidiaries were not permitted to buy or rent instruments from the Electric Company or from other manufacturers; that efficient instruments were sold subsequent to the year 1908 by the Electric Company upon the open market and other manufacturers were also making and selling telephone instruments in large quantities; that the energy and skill of the engineering department of the American Company has in a measure been directed to the improvement of telephone instruments, appliances and apparatus; that this work is progressive, and that the policy of renting instruments to the subsidiary companies, is adopted solely because this necessary progressive development and continuous standardization could not have been adopted had the subsidiary com-

panies been left free to acquire whatsoever instruments they might see fit to purchase; that after the modification of the license contract in 1902 the said American Company continued furnishing said engineering, accounting, auditing, legal and financial services to said Union Company, and said Union Company continued receiving and using said services, and no payments were ever made as compensation for said services unless payments made under the four and one-half per cent. modification of the license contracts be regarded as covering such compensation as hereinafter set forth; that this modification of the method of payment and the adoption of the four and one-half per cent. method operated to reduce the amounts paid by the Union Company per set of instruments per annum; that said engineering, accounting, legal and financial services were of great value and advantage to the said Union Company; that disregarding the form of the 4½ per cent. modification and of the license contracts in equity said services so furnished by said American Company and accepted and availed of by said Union Company should be fairly paid for by said Union Company.

That disregarding for the moment the question of services, the parent company has been entitled to receive from its subsidiaries only the fair rental value of all such instruments as were provided by it for use by the subsidiary companies; that the average number of telephone sets in use and on hand and in the possession of the Union Company during the year 1912 was 319,675; that of these there was an average number in actual use for the year of 309,364, an average number in stock of 10,311; that the 4½ per cent. contract made an express allowance of 3 per cent. of the average number of instruments in actual use to be held in stock by the Union Company and that this allowance represented the maximum number believed to be necessary for such purpose; that in order to provide for unforeseen casualties, floods and the like, the American Company deemed it proper that there should be a reserve; that as a matter of practice this reserve stock was not delivered to it but was held merely as a part of the general stock of instruments kept on hand by the Electric Company for the Bell Company; that there is much conflicting testimony on this subject, but the court's conclusion in the matter is that in the circumstances under which this reserve stock was held, 3 per cent. was in accordance with the terms of the contract an ample allowance; that on this subject much of the testimony went to determine the amount actually paid and what would have been a fair rental for the use of these instruments during

the year 1912, that year being taken as fairly indicative of conditions for other years; that the data for the year discloses that the Union Company paid for the use of the instruments furnished by the Bell Company at the rate of 96 cents per set; that the Bell Company pays to the Electric Company, the sum of approximately $2.50 per set; that this amount includes the cost to the Electric Company for the manufacture of such instruments plus a profit of 20 per cent.; that many patented devices are still used by the Electric Company in the production of these instruments; that some of the devices have been patented directly by the Electric Company, and others of them have been acquired by assignment and transfer from the American Company; that under the 4½ per cent. arrangement the Union Company is also permitted to return for repairs or for replacement by new instruments any instruments which have not proved satisfactory to it, and there is also provision for the furnishing of more expensive linemen sets, test sets and operators' sets; that when the relationship which the American Company bears to the Electric Company and to the Union Company is fairly considered, grave doubt arises whether as a matter of justice the American Company is entitled to receive the profits which it does in fact receive by reason of the triangular contractual relationship which was in fact dictated by itself; that for practical purposes the American Company is the owner of both the Electric and the Union Companies, and the manufacturers profit of 20 per cent. would seem to be all that should have been exacted of the subsidiary under any form of contract; that if these three companies had been acting independently of each other, the Union Company could have rented or purchased its instruments by direct arrangement with the Electric Company; that the evidence on the subject of the 4½ per cent. modification is extremely voluminous; that it is impossible within the limits permitted to touch at any great length upon this evidence; that to determine the difficult question involved here requires a careful study and consideration of all of this evidence; that there is a sharp conflict as to what would be a fair rental value of these instruments; that there is evidence from which it may be fairly concluded that instruments not of the exact type as those furnished, but generally similar in construction and capable of rendering efficient service, manufactured by the Electric Company's competitors, could be bought in the open market during the year 1912 for approximately $3 per set; that the American Company or the Electric Company under the circumstances here existing should be permitted

to charge the Union Company a fair rental for these instruments and this should be determined by the gross cost of their manufacture and delivery to the Union Company, plus a fair profit upon the investment; that the American Company in fact pays to the Electric Company for instruments used by the Union Company approximately $2.50; that there should be added to this sum an allowance for depreciation, taxes, repairs, interest, etc., not to exceed 20 per cent. of the cost of the instruments; that the Union Company without additional cost returns annually to the Electric Company for repairs or replacement a considerable percentage of the instruments actually held by it; that the conclusion of the court from all of the evidence in this record pertaining to this subject is that aside from a question of the value of the services elsewhere considered the Union Company since the year 1894 and down to the present time has paid an excessive price for the use of the instruments furnished it by the parent company.

That the parent company in determining what is best not only for the whole system but for its units, has established a manufacturing department known as the Electric Company as aforesaid; that it has also created within its own (American Company's) organization a department known as the general staff; that this staff in part consists of an engineering department which is largely engaged in inventive, experimental and development work in the interest of not only the American Company but of the whole Bell organization; that efficient and standardized instruments, appliances and apparatus such as the Bell System has employed could only be developed through the agency of this central engineering staff working in close harmony with the Electric Company, the manufacturing department; that an organization of this kind means much of benefit and usefulness to every interest concerned in the doing of this important public service; that if the development of the various appliances, instruments, apparatus, ways and methods used in telephony were left to the energy and genius of the separate subsidiary organizations, a standardized, economic and efficient development of the telephone business would be impossible; that the work of the engineering department was of benefit to the American Company as well as to the subsidiary companies; that the court here is brought to face a difficulty that seems to be ever present in considering the questions involved in this case, that viewing the telephone industry as a great enterprise, as a business that measurably realizes the vision of Fish and Vail,

and assuming its legality the court is impressed with the soundness of the economic principles embodied in the theory of defendants on this question; that a great engineering department such as exists and for many years has existed in the American Company's organization was for the best interests of the scientific and economic development of the telephone business, but the law is opposed to the maintenance and creation of a monopoly of a necessary public service; that the power claimed for the parent company to conduct in its own manner this unregulated monopoly is not permitted by the law and this theory of organization enters into almost all the relations between the parent and the subsidiary companies; that if the organization of the Bell System as a whole and control by the parent company of the subsidiary companies were and are legal this method of control and these rental arrangements aside from the question of price did not as a matter of fact result in injury and damage to the Union Company and its stockholders; that these services were not paid for under any special arrangement with the subsidiaries; that the claim is made that they have been and of right ought to be charged to the subsidiary as part consideration for the 4½ per cent. payments heretofore referred to, which payments have been made under a modification of express, written contracts—the license contracts; that these contracts did not refer in any way to the services, payment for which is claimed to be due under them; that the payments expressly provided for in the contracts are for the use of the instruments and nothing else; that neither in the contracts themselves nor by any language in the correspondence in the record does it appear that prior to 1910 the American Company or the Bell Company ever demanded or thought of charging compensation for this service as part consideration for the 4½ per cent. payments; that the contract in itself is an express one and it definitely provides that 4½ per cent. of the gross receipts of the Union Company shall be paid to the Bell Company for the rental use of the Bell Company's telephone instruments and nothing further; that if these payments are to include payment for services as well as for the use of the instruments, the court would be strongly inclined to the view that the payments were not in fact excessive; that continuing services of value were performed by the American Company and its predecessor for the Union Company; that were this a suit at law no recovery could be had for these services under the 4½ per cent. modification, but being as it is an action in a court of equity, the forms of contracts under consideration here

should be disregarded and the Union Company should be required to pay to the American Company and to its predecessor a fair rental value for the instruments delivered to it by the parent company and also the fair value of the services which were rendered by the parent company to it, the Union Company; that there is no evidence in the record from which the actual value of the services referred to may be determined, but there is no doubt in the mind of the court that the value of such services was as great as, if not greater than, the excess charged to the Union Company, as above indicated, for the rental of telephone instruments; that the conclusion of the court on this subject is that the payments made under the 4½ per cent. modification of the license contracts were excessive, considered as payments for the use of telephone instruments only; that such payments were not excessive, regarded as payments for the use of telephone instruments and also as compensation for services rendered by the parent company to the Union Company; that disregarding the form of the 4½ per cent. modification and of the license contracts, the Union Company in equity should be required to pay fair compensation for both the use of the telephone instruments and for the services rendered to it by the parent company; that the American Company and its predecessor in ownership of the patent rights have at various times acquired patent rights either by grant of Letters Patent or by purchasing patents and rights for the use and manufacture of articles used in the art of telephony; that at all times some of said patent rights have been in force and unexpired; two in particular are of great importance at the present time, viz., the Shreve Repeater and the Pupin Coil, which, although not used up to the time of the filing of the bill in the plant of the Union Company, were used by the American Company in its plant, and this use was of benefit to the Union Company; that no payments were made by said Union Company to the Bell Company for the right to use said patents and said patented articles unless the payments made under the license contracts as modified from time to time be regarded as covering such compensation as hereinafter set forth; that no other telephone company, except the licensees of said American Company, is enabled to make use of either of said last mentioned patents in the telephone business; that the Engineering Department of the American Company—the General Staff of that Company—secured control of rights under the devices invented by employees of the subsidiary companies, and the use thus secured was given to all of the Associate Companies

of the Bell System; the patents and the rights under them were pooled for the benefit of the whole system; that if the development of the various appliances, instruments, apparatus, ways and methods used in telephony, were left to the energy and genius of the separate subsidiary organizations, a standardized, economic and efficient development of the telephone business would have been impossible; that there are now more than 2,000 unexpired patents pertaining to the art of telephony owned by said American Company or by the Electric Company; that such of said patents as are owned by the Electric Company are controlled by arrangements relating to the same between the said Electric Company and said American Company; that said American Company is constantly engaged in developing new patents and patented devices applicable to the art of telephony and in developing and perfecting new methods through its large engineering force designed to make telephone operation more efficient and more economical; that a great engineering department such as exists, and for many years has existed, in the American Company's organization, was for the best interest of the scientific and economic development of the telephone business; that said American Company and said Electric Company make a practice of producing new patents and of purchasing rights under every new patent right obtained by others which may be of value in the art of telephony so far as is possible, and that they jointly do a large amount of development and experimental work; that all patent rights for telephone instruments and apparatus so acquired are subject to the use of said Union Company upon the payment of such royalties as the American Company may from time to time establish, not greater than those fixed for others under similar circumstances, by reason of the said license contracts existing between said Bell Company and said Union Company; that in the trial of this cause the Court has heard a very great amount of testimony upon the issue raised as to the propriety of payments made by the said Union Company to the Bell Company under the license contracts including the said four and one-half per cent. modification thereof; that the testimony presented upon this issue has occupied a large portion of the time spent by the Court in the hearing of this cause; that a court of equity in determining the propriety of such payments cannot exclude from its consideration the value of the services of an engineering, accounting, auditing, legal and financial nature which have been rendered by the American Company and by its predecessor, the

Bell Company, and which have been accepted and made use of by said Union Company and for which no compensation has been paid unless payments made under the license contracts and the four and one-half per cent. modification thereof be regarded as covering such compensation as herein set forth; the Court finds that the American Company, in addition to furnishing instruments, has furnished extensive and valuable services to the Union Company; that these services have been furnished by a large organization of highly trained specialists who render assistance on broad general matters pertaining to the conduct and development of present and future business, and who also supply direct counsel and advice upon special problems in all branches of telephony; that the trained specialists of the general staff are continuously studying all phases of telephone problems with a view of improving and developing the type of construction, methods of operation and everything that goes to make for increased efficiency and the betterment, improvement and extension of the telephone service, to the end that the public shall be furnished with the most valuable and comprehensive service at the lowest cost; that these experts are in constant touch with the telephone situation everywhere, and as a result the Union Company is immediately put in touch with the latest and best developments in the telephone art throughout the civilized world; and the Court finds that the amounts paid by said Union Company, as aforesaid, to said Bell Company have been reasonable and proper payments and have not been excessive as compensation for rentals and services, including the privilege of using patents, devices and apparatus which were manufactured or developed as the result of the performance of these services, and the Court finds that no further accounting should be ordered or had in relation to the matter of said payments.

43. And the Court doth further find that in 1882 the Electric Company was incorporated as a reorganization of the Western Electric Manufacturing Company; that the Bell Company at the time of said reorganization or immediately thereafter owned a majority of the shares of the Electric Company's ten thousand (10,000) shares of authorized capital stock; that on February 6, 1882, the Bell Company and the Electric Company entered into a contract under the terms of which the former employed the latter to manufacture telephones, appliances and apparatus for it; that the Electric Company then agreed to sell to the Bell Company at cost all of its inventions and patents therefor applicable to electric

speaking telephones then owned by the Electric Company or thereafter acquired; that it was further agreed that the Bell Company would employ no other manufacturer to make its telephone instruments except that those holding licenses to manufacture certain patented articles were to continue until the expiration of their respective licenses; that the Electric Company would manufacture no instruments for any other than the Bell Company during the existence of the contract; that the Electric Company then granted to the Bell Company the exclusive right to use, sell and license all the Electric Company's inventions whether patented or not, and the Bell Company then granted to the Electric Company an exclusive license to make telephone instruments and to make and sell telephone appliances to licensees under its patents within the United States, in accordance with the terms of the contract; that on April 8, 1908, this contract was modified so that the Electric Company was permitted to sell instruments, appliances and apparatus covered by patents to sub-licensees and non-licensees within the United States under such restrictions as the licensor under its patents, might from time to time impose; that on January 1, 1906, the Electric Company entered into a contract with the Union Company in which it was provided that the Electric Company should act as the supplies purchasing agent and storekeeper of the Union Company, the compensation to the Electric Company for its services to be a percentage on the cost price of articles furnished to the Union Company, and it was agreed in said contract that the cost to the Union Company for these services during any one year should not be greater than the cost for the corresponding services to the Union Company during the year ending December 31, 1905, when the Union Company maintained its own purchasing department; that said contract contained provisions relating to the inspection of articles delivered to said Union Company, for the return to the Electric Company of used apparatus, and that said contract was to remain in force until terminated by mutual agreement or by one year's notice in writing; that the said contract was modified by a contract made on August 1, 1908, and accompanying letters to said Union Company from said Electric Company; that said Union Company from its organization until the year 1906 had purchased its telephone apparatus and switchboards from the Electric Company and had purchased its other supplies in the open market, the larger part of which latter supplies, however had been purchased from the Electric Company; that since 1906 the Union Company has purchased practically all of its

supplies from or through the Electric Company; that a supply contract similar to the contract with the Union Company had been entered into between the Electric Company and the Bell Telephone Company of Philadelphia, a subsidiary company, some years prior to the contract with the Union Company; that at the date of the supply contract entered into with the Union Company nearly all of the other subsidiary companies of the American Company had entered into similar contracts with the Electric Company; that later all subsidiary companies, including those in which the American Company owned a minority interest, entered into similar contracts; that the total purchases by the Union Company from the Electric Company from the date of the organization of the former company, viz: 1883, until 1914 (after the beginning of this suit) amounted to $21,387,505; that in recent years these purchases approximated not less than $2,000,000 a year; that the Bell Company from an early date worked energetically for a centralized control of the telephone business; that as a part of this ambitious purpose it acquired control of the Electric Company, and this company became thereafter virtually the manufacturing department of the Bell System; that in the course of time the engineering departments of the Bell Company and the Electric Company worked in very close communion; that this co-operation between these departments was altogether wise, if not absolutely necessary, to the success of the business carried on by the parent company; that it was through these close relations that there was inaugurated a system for the development and standardization of devices, apparatus and appliances necessary in the operation of the telephone business as a whole; that this was a sound policy there can be no doubt, and it is difficult to see how a fair and intelligent application of it could have been injurious to the Union Company's stockholders.

That it appears that the books and records of the Electric Company and of the Union Company showing the details of the transactions between the two companies prior to the year 1906 were destroyed by those companies respectively in the usual course of business and there is no evidence in the record to disclose the details of the purchases or prices paid therefor prior to said date; that it is no doubt possible to show that the profit of the Electric Company in some of these matters was large, but taking the business as a whole it is far from clear that these contracts were in fact fraudulent or that they were even unwise; that it is obvious that the Electric Company's business has been profitable; that it has

declared dividends upon its stock usually at the rate of 8 per cent. and during the years from 1910 to 1914, inclusive, at the rate of 10 per cent.; that it now has a very large surplus and in times past its stock dividends have further evidenced the profits of the business; that it is clearly shown by the evidence that since 1896 the Union Company's financial condition has been far from good; that these facts however do not in and of themselves tend to sustain the charge of fraud; that the conduct of the parties under these contracts did not in any appreciable way militate against the best interests of the Union Company; that the evidence as to the fairness or the unfairness of the Electric and Union Company transactions and contracts is voluminous, and in some particulars it is contradictory; it is intricate, and involves the consideration of a mass of testimony relating to technical questions of accounting and manufacturing; that in this hearing the Court has heard a large amount of testimony from experts and others in relation to the transactions between the Electric and the Union Companies; that the complainants with the aid of experts have made investigations of the books and records of both the Union Company and the Electric Company and have had every reasonable opportunity to make more elaborate studies or investigations if they saw fit to do so; that in the trial of this cause the Court has heard a very great amount of testimony upon the issue raised as to the propriety of payments made by said Union Company to said Electric Company; that whether application is made here to the rule that a fiduciary must stand ready to account to the dependent, or that of the "closest scrutiny," the evidence here is sufficiently full to enable this court to say that no fraud appears; and the Court finds that the amounts paid by said Union Company to said Electric Company were not larger than was reasonable at the time of said purchases and payments and that said Electric Company's conduct toward the Union Company in compliance with the terms of the said contracts was in no sense fraudulent or unfair, and the Court finds that no further accounting should be ordered or had in relation to the matter of said contracts and said payments.

44. That it appeared that the American Company had made loans from time to time to the Union Company and the question is raised under the pleadings as to whether or not the making of said loans was *ultra vires* the American Company; that a correct copy of the charter of the American Company is set forth in the aforesaid stipulation of facts article 16, pages 20 to 23 thereof; that said charter contains

no provision which authorizes that company to conduct the business of loaning money; that the main purpose of this organization was to conduct a telephone business; that it had this express power and such implied power as was reasonably necessary to give it effect; that the Union Company was organized by the parent company to assist in carrying out the purposes of said parent company in extending the telephone business throughout the United States; that the aforesaid loans and advances to said Union Company were made by said American Company to enable the Union Company to extend and carry on the telephone business in the territory allotted to the Union Company by the Bell Company; that as heretofore held, said American Company did not have the legal right to conduct its business in the manner in which that business has in fact been operated, that is, by stock control of subsidiary companies, and it had no power to create, extend and expand its business by means of loans to said subsidiary companies; that as a matter of fact it appears that generally the loans made to said Union Company were made in accordance with the general practice of said American Company to raise funds for different subsidiary companies of the Bell system, by the sale or pledge of its own securities or by pledge of subsidiary companies' securities, and to use the proceeds thereof in making such loans or advances to said subsidiary companies or in buying the securities thereof; that the practice was for the Union Company to present annually to the American Company a statement of what amounts of money would, in the judgment of the officers of the Union Company, be necessary to meet the requirements of the Union Company during the year succeeding; that the larger part of the money so received from the American Company was spent for the purpose of extending the plant and lines of the Union Company; that said American Company in carrying on said business of raising funds or making loans or advances to said subsidiary companies was in fact engaged in the business of loaning money; that the making of said loans or advances by said American Company to said Union Company was *ultra vires* said American Company and against the law and public policy of the State of Illinois and any notes held by said American Company representing the aforesaid loans cannot be enforced as notes against said Union Company; that no serious contention is made, however, that the money represented by the notes in question did not in fact pass to the Union Company and that such money was not used in the business of that company, other than the suggestion that the book value of

the Union Company's plant indicates that a considerable portion of the money cannot be traced into the plant and does not appear sufficiently in the books of the Union Company; that this position is not supported by the evidence; that the evidence tends to prove that the money was fairly used by the officials of the Union Company in connection with the plant extension, growth and protection of the business of the Union Company; that so far as advances were made by the American Company to the Union Company for the sole benefit of the American Company which in no sense inured to the benefit of the Union Company, there should be no allowance made to the American Company, but as to those which were advanced to and disposed of by or on behalf of the Union Company as a joint enterprise, the master should apportion the amount which is chargeable to each of the parties on the accounting hereinafter ordered; that a more serious question arises in determining whether and to what extent, if at all, the American Company was benefited by these large expenditures; that it is conceded and the court holds that the whole burden of the fight against competition in Union Company's territory subsequent to the year 1894 was borne by the Union Company and that the continuance of this fight was made possible by the loans in question; that the large deficit of the Union Company is largely accounted for by the development of competing telephone interests following the year 1894 when the fundamental patent rights became extinguished and the evidence is clear that the development and growth of the independent companies constituted a constant menace to the supremacy of the Bell system, not only in the Union Company territory where competition became intense, but also in other parts of the United States; that the Union Company's plant following the development of the lines of the American Company became practically the only means that the American Company had of connecting with telephone users in the territory of the Union Company; that it is obvious that the interests of both companies were seriously threatened by this competition and that from time to time subsequent to the year 1894 serious efforts were made to amalgamate all of the independent companies into one large organization with the purpose of presenting a united opposition to the Bell system; that the correspondence appearing in the record discloses that the American Company and its officials took an active interest in this combined fight in the Union Company's territory; that this competition was met by the Union Company in various ways,

among others by mergers, that is by the purchase of the plants of the competitors of the Union Company, in which cases the purchases were made with the consent and under the direction of the American Company and by the use of money loaned by it to the Union Company, or by selling in a particular locality all or a part of the plant of the Union Company to an independent competitor, the latter agreeing at the time of said sale to enter into a contract with the Union Company which would in fact make the independent company thereafter a part of the Bell system; that among other instances disclosed by the evidence was a proposed deal in the year 1905 involving the purchase at Indianapolis of the independent New Long Distance Lines and other companies which was finally rejected by Fish, then president of the American Company; that to purchase a control of the stock of these companies would have required the expenditure of $318,000 and that the defendant Richardson in a letter to President Fish referring to this deal said:

> "The advantages to be gained are numerous and are briefly mentioned in our letter of the 13th, but greater than all is the breaking up of a continuous line of consolidations of majority interests among the independents from New York to Kansas City, and yet doing it in such a way as to prevent the building of other independent lines across this state for a year or two at least. It may be that with the broader view you have of the general situation you do not fear this new consolidation scheme as much as I do."

That this and other evidence in the record discloses beyond question that the suppression of competition on the part of independent telephone companies which cost the Union Company such an immense sum of money was a matter of vital interest to the American Company and the Bell system as a whole; that the breaking up of the threatened consolidation of independent interests to which the defendant Richardson in the aforesaid letter referred obviously would have inured to the benefit of the business of the American Company; that at no time was any serious demand ever made by any of the officers of the Union Company upon the Bell system or the American Company that the parent company should sustain any of the expenses necessarily incurred in meeting this competition; that had the Union and American Companies been acting independently of each other under the same conditions as actually existed in Union Company terri-

tory, it is not conceivable that the Union Company's officials would have permitted that company to have borne the full burden of this expensive fight; that in the interest of its stockholders the officers of the Union Company might have restricted the field of its operations rather than expanded it, and the court holds that thereby competition could have been met in limited territory without loss or impairment of the Union Company's capital; that the Union Company was in fact the creature of the American Company; that it had no independent policy of its own and its officers at no time, so far as the record discloses, attempted to solve the difficulties of the Union Company arising from this competition by regarding solely the interests of the stockholders of that company; that there was a continuous effort to oppose competitors in the interest of the Bell system; that in the year 1911 the Union Company purchased the plant of an independent company at Quincy, Illinois, which had a plant that had been appraised by Union Company engineers as having a depreciated value of $243,300 and a replacement value of $280,000; that the defendants Sunny and Richardson, officers of the Union Company, were willing to pay not more than $300,000 for this plant and the defendant Richardson had written to Kingsbury, Vice President of the American Company, concerning the proposed purchase:

> "If it is of sufficient importance to the interests at large to pay a larger sum for the property, then the American Company should pay the difference between the amount we feel willing to pay and the sum the present owners demand. My understanding has been that in the event a sum larger than the real value of the local company is offered, the difference will be taken care of in some other way. Is this correct?"

That the evidence shows that the Union Company in fact paid $378,000 for this property and it does not appear that any part of this purchase price was paid by the American Company; that the aforesaid Fish, former president of the American Company, testified as follows:

> "Q. And in buying these toll lines you would have in mind the strengthening of the Bell system in competition with the so-called independent companies?
>
> A. That undoubtedly was always in mind—the strengthening of the Bell system in every way, including the very important thing of strengthening it in the fight with the opposition which was very strenuous."

That another method adopted by the Union Company to meet the competition of the independent interests was by rate cutting; that this method was adopted in many instances and the defendant Sunny in a letter dated April 1, 1909, addressed to defendant Vail pointed out that the Union Company contemplated making a fight against the United States Telephone Company of Ohio, an independent company, which would cost the Union Company $140,000 per annum, stating that

> "Ohio seems to be the seat of most of our trouble and the U. S. are responsible for it. It is the same crowd that is trying to make trouble for us in Chicago. They are a menace to our whole organization and ought to be exterminated."

And further stating that

> "the interests of the Central Union and the A. T. & T. are so closely interwoven in this situation that any decision as to policy must be by both."

That this policy of rate cutting was applied almost entirely to Union Company's rates and competition has caused no material reduction in the rates of the American Company; that as a matter of fact it appears that the long distance rates of the American Company are on the whole to-day as high as they were at the inception of the long distance business; that the rate cutting of the Union Company done for the purpose of preserving the Union Company's stations, which in fact constitute the American Company's terminals was a matter of consequence to both companies; that if these stations were eliminated altogether the American Company's source of revenue would have disappeared, as would also that of the Union Company, and if their efficiency were restricted, the restrictions would affect the income of both companies; that the connection of the Union Company with the Bell system was of importance in obtaining subscribers and business by the Union Company is without question; that the relation of these two companies with each other was such that each was in fact necessary for the success of the other; that it is clear that the long distance connection was of great value to the Union Company; that it is equally clear that the connection of the American Company's lines with the lines and stations of the Union Company was of great importance to the American Company; that the court therefore holds that the expense or loss occasioned by rate cutting which was borne by the Union Company for the joint benefit of both

companies should be borne by the American Company to the extent to which it benefited thereby.

45. That the American Company was benefited by every extension or improvement of the plant or business of the Union Company and this appears from the fact that the outgoing long distance messages of the American Company in the Union Company's territory were originated on the stations of the Union Company and its connecting companies; that the existence and expansion of the exchanges and stations of the Union Company were necessary to the long distance business of the American Company; that every station added to the plant of the Union Company constituted a long distance terminal for the American Company, and every subscriber to the exchanges of the Union Company became a possible customer for the American Company; that even though it was obvious that the Union Company's growing deficit would within a few years bring that company to insolvency, large expenditures continually were made for the extension of the plant of that company and in places and at points where no reasonable hope could be indulged of immediate profit to the Union Company from such expenditures; that while the officers of the Union Company were supposed to be giving their whole attention to the business and affairs of that company, the large expenditures under the circumstances under which this company is found in recent years for the purchase of plant not immediately necessary to the business of the company, does in and of itself indicate the entire failure on the part of these officers to understand what the fundamental duties of their offices required of them; that in fact all expenditures made by said Union Company on its own plant have been under the direct control of the officials of the American Company; that it has been the custom during many years last past for the Union Company to submit each year to the American Company its proposed expenditures for the following year and the officials and representatives of the American Company have examined said proposed expenditures and determined what should be actually undertaken; that these particular estimates or budgets prepared by the general manager and president of the Union Company were never submitted to the board of directors of said Union Company either before or after they had been submitted to the officials of the American Company, and the decision of the officials of the American Company as to what expenditures should be made was treated as final and determined the actual construction undertaken by the Union

Company; that although the toll business of the Union Company was more profitable than the exchange business at most, if not all of the points where said Union Company had exchanges, very much the greater proportion of the expenditures made by said Union Company under the control and direction of said American Company as aforesaid, was spent in the building up of exchanges in the territory of said Union Company, which exchanges serve as terminals and feeders, as aforesaid, for the lines of said American Company; that it is conceded and the court finds that the American Company could not have conducted its business at all in Union Company's territory without the stations of the Union Company; that had this money loaning program not been established and had the Union Company gone out of business, the American Company would have been without a source of revenue of any sort in the Union Company's territory; that on the other hand the Union Company might have continued its business, and perhaps profitably, over its own exchanges and toll lines, and this is also shown when it is considered that due to the control of the American Company over its affairs, the Union Company has been prohibited from making connecting arrangements or operating agreements with other telephone companies transacting business in its territory except with the consent of the American Company; that if the American Company had not had its connections with the Union Company's lines and exchanges, the American Company's only alternative would have been the construction and development of stations to serve as terminals for its lines; that the expense which this would occasion would almost certainly render it impossible to transact business in much of the Union Company's territory at reasonable rates to the public; that in order to render such stations profitable the American Company would be compelled to transact a short haul toll and local exchange business in this territory in direct competition with the Union Company; that this shows how necessary the preservation and extension of the telephone stations of the Union Company were in fact to the American Company; that the Union Company has been regarded and treated merely as an auxiliary or feeder to the American Company's lines.

46. That the books of account and records of the Union Company have at all times been kept under the direction of the parent company.

47. That the interest on the loans made by the American Company to the Union Company was fixed by the American

Company; that the defendant Richardson testified that he tried unsuccessfully to have the interest rate reduced from time to time; that the Union Company officials mailed the company's notes to the American Company at New York drawn at 6%, when as a matter of fact 5% was the amount charged on those notes by the American Company, and the American Company at other times charged 6% on notes drawn at 5%, and further evidence of the loose manner in which this money lending business was conducted by these companies appears from the fact that 20 of the notes of the Union Company, held by the American Company for the principal sum of $1,000,000 each, specify no rate of interest; that on ten of these the space provided in the form for insertion of the rate of interest is blank and on the other ten notes it appears upon their face that they are for $1,000,000 each "with interest"; that the Union Company could have made temporary loans at different times at a rate of interest less than that charged it by the American Company, but these offers of loans were generally for short periods of time; that the officials of the American Company prevented the Union Company from making such temporary loans because, as the American Company claimed, it was required to make preparation in advance for the large drafts made upon it by the Union Company and other subsidiaries, and it insisted that all of the money required by the Union Company by way of loans and advances should be obtained from it (the American Company).

The court holds on the whole record that the interest rate charged the Union Company by the American Company was not so high as to indicate fraud on the part of the American Company, but as the conclusion of the court is that as to so much of the indebtedness of the Union Company to the American Company as may be allowed on the accounting hereinafter ordered, the American Company is entitled to receive interest at the legal rate (that is 5% per annum) as of the time when the indebtedness shall be found to have accrued, the determination of this question as to whether or not the rate of interest actually charged was excessive is not of vital importance.

48. That at the date of the filing of the original bill herein said American Company was the holder of certain alleged notes issued in the name of the Union Company for the aggregate amount of $22,520,000, and said Chicago Company was the holder of similar notes in the aggregate amount of $10,300,000 as is more particularly set forth in said stipulation

of facts, Article 60 pages 144 to 146 thereof, containing a description of said notes; that said notes so held by said Chicago Company at the time of the filing of the original bill herein had originally been issued to said American Company and by the latter sold and endorsed over to said Chicago Company and at a date after the filing of said original bill said notes so held by said Chicago Company were retransferred back to said American Company; that after the filing of said original bill herein certain other alleged notes were issued in the name of said Union Company by the officers thereof to said American Company for the aggregate face amount of $2,800,000; that all of said alleged notes so held by said American Company represent an alleged indebtedness of said company that grew out of the contracts, arrangements and transactions existing between said Bell Company and said American Company on the one hand and said Union Company on the other hand and the redemption of the mortgage bonds of the Union Company hereinafter described; that some of said pretended notes are renewals of alleged notes given from time to time by said Union Company to said American Company since the year 1900 or thereabouts and include in the principal amount thereof accumulations of interest that have accrued or are claimed by said American Company to have accrued on said alleged notes heretofore outstanding and paid monthly as above set forth; that the only action ever taken prior to the filing of said bill by the executive committee or board of directors of said Union Company authorizing the officers of said Union Company to borrow funds from said American Company is set forth in said stipulation of facts, Article 62, pages 146 and 148 thereof; that out of the total of said alleged notes held by said American Company and said Chicago Company at the date of the filing of the original bill aggregating $32,820,000, less than $6,000,000 thereof had ever been authorized by the directors of said Union Company and less than $12,000,000 thereof had ever been authorized by the executive committee; that the aforesaid executive committee of said Union Company consisted of five out of the eleven directors of that company and was elected by the board of directors and purported to exercise all of the powers of the board of directors in the management and administration of the affairs of the company when the board was not in session; that the giving of notes by said Union Company, many of which were payable according to their terms on demand, having an aggregate amount more than six times the outstanding capital stock

of said Union Company, was not within the usual powers of such corporate officers; that the American Company agreed with certain of the directors of the Union Company that in consideration of their acting as directors the American Company would save them harmless from any liability arising from the fact that any indebtedness of the Union Company exceeded the amount of the capital stock of said Union Company; that the American Company took such of said notes as were not authorized or ratified as aforesaid with full notice that the same had been neither authorized nor ratified.

49. That in 1903 the floating indebtedness of the Union Company claimed by the American Company to be due to it was approximately $2,000,000; that thereafter this alleged indebtedness increased rapidly until the year 1912 when it reached the large sum of over $32,000,000; that during this period of time several plans were discussed by the officers of the American and Union Companies for a reorganization of the Union Company; that on June 29, 1908, defendant Vail, President of the American Company, referred in a letter to a plan for the "absorption" of the Union Company; that the plans that were discussed during these years finally culminated in what is described in the evidence as the plan of 1910; that under this plan it was agreed by the officials of the two companies that the Union Company's organization should be divided into three state companies and that a sale should be had of the assets of the company in the several states to new companies to be organized in the respective states, the Union Company to be continued as the operating company in Illinois; that this plan further contemplated the conversion of $15,000,000 of the indebtedness of the Union Company into stock of the latter company at par, which stock was to be taken by the American Company in satisfaction of such part of said indebtedness; that the balance of said indebtedness of the Union Company was to be converted into stock or bonds; that this plan received the approval of the officers of both companies, as well as the stockholders, including the minority stockholders of the Union Company; that for some reason not appearing in the evidence this plan was never carried out and nothing was ever done by way of putting it into execution, and there is some evidence to the effect that there were legal objections thereto.

50. That on January 18, 1913, a notice was issued to the stockholders of the Union Company calling a special meeting of such stockholders for February 11, 1913, for the purpose of submitting to a vote of the stockholders the question of

selling all or any part of the property of the company, copies of which notice and of the proxy accompanying the same are set forth in said stipulation of facts Article 77, pages 211 and 212 thereof; that after this notice had been sent out it was learned by certain of the minority stockholders that it was proposed to sell out the assets of the Union Company in Illinois to said Chicago Company and the assets of the Union Company in Ohio and Indiana to certain other corporations, also controlled by the American Company; that interviews concerning this proposed sale were had between Fiske, representing some of the minority stockholders complainants herein and the defendants Sunny and Richardson; that Fiske employed expert accountants to examine the books of the Union Company and that those accountants reported that no sufficient examination could be made prior to February 11, 1913, the date set for the stockholders' meeting; that the defendant Richardson refused to postpone said meeting; that he indicated that the meeting would be called, but that action on the proposed sale might be postponed if the minority stockholders wished further time for an examination of the books, and that he (Richardson) would procure from defendant Sunny his written assurance to that effect; that this written assurance was not forthcoming and that the bill herein was filed on the 8th day of February, 1913; that immediately after the filing of the bill the proposed sale was restrained by the injunction order of this court; that the defendant Sunny did not testify in the case, but it appears that under this so-called 1913 plan it was proposed to sell the assets of the Union Company in Illinois to the Chicago Company for the sum of $8,862,537.16, and that the aggregate considerations to be received for the assets of the Union Company in the three states was to be the sum of $29,609,420.01 and that this total sum was less than the amount claimed to be due the American Company from the Union Company; that if these sales had taken place they would have eliminated the minority stockholders of the Union Company altogether and made their stock worthless; that letters setting forth the terms of the proposed sales were written by the defendant Sunny to the defendant Bethell; that the defendant Bethell testified that he submitted Sunny's letter to DuBois, comptroller of the American Company with a memorandum stating that he (Bethel) questioned "the fairness from the standpoint of the Central Union stockholders of a sale at the depreciated value of the property," and that DuBois reported back to Bethel that in his judgment the amount was lower than it should be; that no account was taken in

the price at which Sunny proposed to sell the assets of the Union Company of the fact that the Union Company was a going concern and no element of franchise or going concern value was included in the valuation placed by him upon its assets; that the defendant Sunny was at the time of these transactions President of the Union Company, the Chicago Company and the Cleveland Company; that said Sunny continued to act as President of the Union Company until the injunction was issued by this court and was the responsible man in Chicago acting for the three companies above named, subject to the control of the American Company, the majority stockholder in said companies; that the defendants Sunny and Richardson were the men who were responsible for the proper management of the affairs of the Union Company and their first duty was to conduct those affairs as to best conserve the interests of the stockholders; that notwithstanding this fact it appears without question or doubt that the stockholders' interests would have been completely eliminated had not the American Company's officials interfered as hereinafter set forth; that the officials of the Union Company, particularly Sunny, urged that the property of the Union Company be sold for a lower price than the representatives of the American Company thought should be paid for it; that the defendant Bethel testified that on or about February 5th, 1913, he directed Thayer, an officer of the American Company to proceed at once to Chicago and attend as the representative of the American Company, the meeting of the stockholders of the Union Company, called for February 11, 1913, and not to vote for or consent to any sale or disposition of the assets of the Union Company that would not meet with the approval of a considerable portion, at least a majority, of the minority stockholders of the Union Company; that said Thayer was about to leave New York for Chicago when he was notified of the beginning of this suit and the granting of said injunction; and the court finds that the defendant Bethel did in fact intend to interpose for the purpose of protecting at least some of the Union Company's minority stockholders from a sale which would have rendered its stock worthless; that no such purpose on the part of said Bethell was communicated to the complainants prior to the filing of the bill of complaint and the granting of the injunction aforesaid; that in contemplation of the meeting carrying out the sale of the assets of the Union Company in Illinois to the Chicago Company defendant herein, the board of directors of said last named company had on January 8, 1913, called a meeting of the stockholders of that company to be held Feb-

ruary 12, 1913, to pass on the proposed purchase by the said Chicago Company of said assets; that at the meeting of said stockholders of said Chicago Company held on said February 12, 1913, it was announced that in view of the fact that the Union Company's stockholders had not authorized the sale of their Illinois assets the consideration of that matter "would have to be deferred"; that at that time which was four days after the granting of the temporary injunction aforesaid, the plan of selling the assets of the Union Company in Illinois to the Chicago Company had not been abandoned, but its execution had merely been postponed.

51. That the Union Company officials on July 1, 1912, by direction of the executive committee, but without authority or direction from its board of directors or stockholders, redeemed $6,000,000 par value of bonds of the Union Company at an expense to the company by way of premium and other expenses in the sum of $303,000; that said bonds were unmatured and undefaulted and had several years yet to run; that $3,500,000 of these bonds bore interest at the rate of 5% per annum and the balance bore interest at the rate of 6% per annum; that the money to redeem these bonds was procured from the American Company, the Union Company giving therefor its notes payable on demand with interest at the rate of 6% per annum; that the expenditure of so large a sum of money as $303,000 was a matter of grave concern to a company in the financial condition of the Union Company at the time of this bond redemption; that if the officers of the Union Company had been acting in a wholehearted way in the interest of the stockholders of that company, this transaction would not have taken place; that it was testified by the officers of the Union Company, particularly the defendant Richardson, that the provision in the Union Company's mortgage securing the bonds rendered it difficult and cumbersome to transact business by reason of the necessity of placing in escrow the amount realized from the sales of property to be released from the mortgages; that it was also urged that the redemption of these bonds was desirable and perhaps necessary before any reorganization plans such as that of 1913 aforesaid could have been made effective; that of these reasons so offered the first one, though plausible, on close examination does not justify the action taken; that for many years the defendant Richardson and his colleagues submitted to whatever inconvenience there might have been in connection with the transfer of the property of the Union Company, yet Rich-

ardson would now have the court believe that this method became unbearable at the very moment when he and his colleagues proposed a complete dismemberment of the Union Company itself by the 1913 plan aforesaid; that the other reason given for the redemption of these bonds as above stated, to wit, that it was necessary in order to accomplish a reorganization such as the 1913 plan, is perhaps the true one, but that is not sufficient under the circumstances.

The court holds that this bond redemption transaction cannot be justified; that it was imposed upon the Union Company by its own officials acting in the interest of the parent company; that good and loyal management would have refused to convert this bonded indebtedness into a demand obligation at a direct expense of $303,000 and the assumption of increased interest obligations; that the Union Company is entitled to an accounting for any loss it may have sustained by reason of this transaction.

52. That immediately upon the filing of said bill of complaint on February 8, 1913, an injunction *ex parte* was granted as aforesaid by this court restraining the defendants from taking or attempting to take any action as officers, directors or stockholders of said Union Company or otherwise, making, authorizing or in any way confirming any sale of the assets of said Union Company in whole or in part to the Chicago Company or to any other corporation, firm or individual controlled by or affiliated with the American Company, or to any other corporation, firm or individual whatsoever and nothing further was done toward the consummation of the aforesaid 1913 plan; that the court by its said order of February 8, 1913, also granted an injunction against the holding of the special meeting, of the stockholders of said Union Company called as aforesaid for February 11, 1913, and against said American Company's voting its stock in the Union Company at said special or any other meeting of the stockholders of said Union Company and against any transfer of said stock, and said injunction also forbade the payment of any part of the principal of said alleged indebtedness claimed by said American Company to be due from said Union Company as aforesaid and forbade the transfer of the aforesaid demand notes signed in the name of said Union Company which were held by said American Company and said Chicago Company as above set forth; that subsequently further injunctions were granted by this court forbidding the payment by said Union Company of any part of the interest accruing on said alleged indebtedness to said American Campany and forbidding the payment

by said Union Company to said American Company of amounts claimed to be accruing under the several contracts heretofore referred to and attacked in the bill of complaint filed herein; that subsequently on to wit, January 31, 1914, receivers *pendente lite* of the assets of said Union Company were appointed by this court and subsequently in proceedings duly instituted by the aforesaid complainants, under the direction of this court, said receivers were also appointed by the courts of Indiana and Ohio as receivers of the assets of said Union Company located in those states, respectively, and in Indiana an additional receiver was also appointed by the Indiana court; that the appointment of said receivers in this cause was after prolonged opposition thereto on the part of the defendants and the introduction of a great deal of evidence by way of affidavits and other documentary proof both in support of and in opposition to said appointment, but said order appointing said receivers was according to the terms thereof entered by consent of all parties; that the orders so appointing said receivers continued in effect the injunctions above referred to and under the provisions of said order no payments have been made by said receivers to said American Company on account of either the principal or interest of said indebtedness claimed by said American Company as aforesaid; that said order appointing said receivers required said receivers to submit to the court for its determination what amounts would be just and equitable to pay said American Company for the services rendered to said Union Company or said receivers from time to time during said receivership; that subsequently on, to wit, June 23, 1914, the court entered an order upon petition duly filed in which order it was, among other things, found by this court that it had been stated in open court by the solicitors for the American Company that no payments would be asked from said receivers on account of any of the contracts or arrangements therein referred to until the final hearing of this cause and that the question as to the amount to be paid by the receivers of the Company whether under the 4½ per cent. contract, or for rental of telephone instruments, or on account of the division of long distance telephone tolls, or the division of the through tolls, or the rental to be paid for attachments for putting the lines of the Union Company on the poles of the American Company, might be decided by the court on the final hearing of this cause; that no amounts have been paid by said receivers to said American Company on account of the aforesaid several contractual arrangements that had been in force be-

tween said American Company and said Union Company prior to the filing of the original bill herein; that said receivers have not made any report to the court or submitted any evidence in relation to any of the aforesaid matters; that the findings contained in this decree relate solely to the period prior to the receivership unless the contrary is therein expressly stated and that the accounting hereinafter ordered refers to such period only.

53. That it is admitted on this record that the complainants here have held their stock prior to the filing of the bill for periods of time ranging between 30 and 10 years as hereinbefore stated; that the original complainants were residents of foreign states who were charged with affairs other than those relating to their stock ownership in the Union Company; that the affairs and business of the Union Company were under the control of the American Company and it would be inequitable to require these minority stockholders to determine for themselves the real nature and character of this control; that many of the relations between these companies which were created by the control exercised by the parent organization were such as could in their nature be known only to persons holding responsible positions in the Bell system; that the minority stockholders of the Union Company were entitled of right to the best judgment of the officials of their company in the making of important contracts; that many of these contracts which were entered into between the companies were of vital consequence to the Union Company and their execution should have been entered into by the officials of that company only upon the exercise of expert skill and judgment of a high order; that the complainants were justified in assuming that the officials of the Union Company were dealing in perfect good faith and with reasonably sound judgment with the affairs of their principal; that some of these transactions and relations are intricate in the extreme and it is difficult if not impossible even after a full and elaborate hearing to determine whether the Union Company was wronged and if so the extent to which the Union Company was damaged through its connection therewith; that these transactions have never been a matter of public record; that in relatively few instances was any record of these matters made in the book records of the Union Company; that the true nature of some of them was discoverable only after a painstaking search of the correspondence and documents contained in the Union Company's files; that the complainants, with some unimportant exceptions, had but slight knowledge of the rela-

tions that actually existed between the American and Union Companies, and the complainants, with the exception of one or two, did not know before the investigation which was made a short time prior to the filing of the bill of the rapid increase in the indebtedness of the Union Company to the American Company, or of the manner in which this indebtedness accrued and the purposes for which the money received from the American Company was expended; that none of the complainants appear to have had any knowledge of the fact that the American Company subsequent to 1894 had been purchasing the Union Company's stock or that the defendant Richardson or defendant Sunny had been acting for the American Company in its efforts to acquire additional stock of the Union Company; that Kimball, the Chicago complainant, did in fact know of some of the aforesaid relations and arrangements, but even in his case it would be unjust to hold that he was guilty of laches concerning many of these matters; that the original complainants were and have been residents of the State of New York; that the Union Company is an Illinois corporation and it has had its principal place of business at different times in Chicago, Illinois, and Indianapolis, Indiana; that as to these original complainants there is no presumption that they knew of the particular manner in which the business of the Union Company was being conducted by its officers, nor that they knew of any laws of this state which would render the acts of the Union Company illegal as being against the public policy of the State of Illinois; nor is there any presumption that the complainants in this cause knew that the officers of the Union Company were acting illegally or unfairly in the performance of their duties as such officers at that time; that the court is not greatly impressed with the contention that the complainants did not in fact know of the stock control of the American and Bell Companies in the Union Company; that this control existed for many years; that it does not appear that the defendants or their agents made any effort to conceal the interest of the parent company in the Union Company; that it affirmatively appears that certain of the complainants did have actual knowledge of such interests; and even if it be true that other complainants were not apprised of this ownership and control, such information and knowledge could have been acquired by slight inquiry or by examination of the books and records of the Union Company; that it cannot be inferred that the complainants are chargeable with knowledge of the stock interest of the parent company in all of the subsidiary companies; that the evidence

does not disclose that they in fact did have such knowledge nor that they had the right to examine any books or records from which such information was obtainable; that it is well within the possibilities that the complainants did not in fact, and could not in reason have knowledge of all the facts and acts which go to indicate the purpose of the parent company in acquiring the stock controls; that the complainants did have, or by the use of reasonable diligence could have had, knowledge of the fact that the American company owned a controlling interest in the Union Company; that as the stock ownership of the American Company in the Union Company complained of in this case had an inevitable tendency to stifle competition and to create a monopoly of the telephone business, forming a business impressed with a public character, this defense of laches or acquiescence even if permissible under other circumstances can avail the defendants nothing; that on the whole record it cannot be held that the complainants were not diligent because of their failure to obtain knowledge of the nature and the result to the Union Company of the relations that existed between that company and the American Company; that the complainants were not guilty of laches and did not acquiesce in and were not parties to the transactions herein referred to, and they are not estopped by any conduct or acts of theirs to claim the relief herein prayed for.

54. That the original complainants filed their original bill of complaint herein on behalf of themselves and all other stockholders of said Union Company who might desire to join as complainants and bear their share of the expenses of this litigation; that upon the application of said complainants, and with the consent of the defendants, receivers of said Union Company were appointed as aforesaid in the States of Illinois, Indiana and Ohio; that this cause has been prosecuted at all times by said original and intervening complainants in good faith and for the benefit of the estate of said Union Company; that said complainants in instituting and prosecuting this cause have performed services of value to and for the Union Company and have been successful in securing relief therefor as appears from the findings and orders in this decree.

55. That as alleged in Article 21 of said original bill of complaint, the officers and directors of said Union Company at the date of the filing of said bill were identified with and subservient to and controlled by said American Company to such an extent as to disqualify them from acting as such of-

ficers and directors of said Union Company or performing the trusts and obligations resting upon them as such officers and directors; that any demand or request on the part of the original complainants addressed to such directors or officers asking them or any of them to institute any proceedings at law or in equity against said American Company for or on account of any of the acts complained of in said bill of complaint, or asking them or any of them to take any action that would protect or conserve the interests of said complainants as stockholders against the interests, suggestions, directions or exactions of said American Company would have been utterly futile and of no avail and would not have resulted in any action so desired or requested by said complainants; that the futility of any such demand by said complainants is conceded by the defendants in this case; that said original complainants were justified in bringing and had the right to bring, their said original bill of complaint on behalf of themselves and all other stockholders of said Union Company to enforce the rights of said Union Company against said American Company in the manner and for the purposes in said bill of complaint set forth.

I.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all injunctions heretofore granted by this court in this cause as the same are now in effect, are hereby continued until the further order of this court.

II.

That the order heretofore entered in this cause on January 31, 1914, by the consent of all parties appointing David R. Forgan, Edgar S. Bloom and Frank F. Fowle, receivers of said Union Company as modified by orders heretofore duly entered, is hereby continued in full force and effect pending the hearing and final determination of any appeals that may be taken from the entry of this decree, or until the further order of this court, and the court reserves the right upon petition of any of the parties to this cause or otherwise, to make such orders from time to time for the instruction and guidance of said receivers as may be proper, and reserves full control over said receivers and the power to remove any one or more of them and to appoint a successor or successors to any of said receivers in case of removal, resignation or inability to act.

III.

That said American Company, said Union Company, said Chicago Company, said Bernard E. Sunny, Theodore N. Vail, Union N. Bethell, L. G. Richardson, Alonzo Burt, Charles E. Mosley, B. S. Garvey, H. F. Hill, John Sherwin, C. H. Brownell, E. E. Jackson, L. N. Whitney, W. I. Mizner and said Western Electric Company, defendants herein, and each of them and all of the officers, directors, servants, employes, agents and attorneys of each of them, and all persons now or hereafter conspiring or confederating with said defendants or any of them, or with their officers, directors, servants, employes, agents or attorneys, are hereby enjoined and restrained, except by and under the direction of the court, from making, authorizing, approving, or in any way confirming any sale of the assets of said Union Company in whole or in part to said Chicago Company, or said American Company, defendants herein, or to any other corporation, firm or individual controlled by or in any way affiliated with said American Company, and from dissipating, concealing or secreting any of the assets or effects of said Union Company.

That said Bernard E. Sunny, Theodore N. Vail, Union N. Bethell, L. G. Richardson, Alonzo Burt, Charles E. Mosley, B. S. Garvey, H. F. Hill, John Sherwin, C. H. Brownell, E. E. Jackson, L. N. Whitney and W. I. Mizner are permanently enjoined and restrained from acting as directors or officers of the Union Company under or by virtue of any election or appointment heretofore held or made, except that the officers may execute such documents as may be asked for by the receivers in operating the property of the Company or as may be required to carry out the orders and decrees of this court.

That all stockholders' meetings are hereby enjoined during the continuation of the receivership unless otherwise ordered by the court.

IV.

That the defendants, and each and all of them, and all of the officers, directors, servants, employes, agents and attorneys of each of them, and all persons now or hereafter conspiring or confederating with said defendants or any of them, or with their officers, directors, servants, employes, agents or attorneys, are hereby permanently enjoined and restrained from voting or attempting to vote, or permitting to be voted any or all of the stock in said Union Company claimed to be

owned by said American Company, whether held in its name or in the name of some individual or corporation acting on its behalf, at any regular or special meeting of said stockholders, and from collecting or attempting to collect, or permitting to be paid by said Union Company any dividends or distributive proceeds on account of the aforesaid stock in said Union Company to said American Company or to anyone acting on its behalf, and from transferring, assigning, pledging or otherwise disposing of any of the stock in said Union Company held by said American Company or by anyone on its behalf as aforesaid, or permitting the same to be transferred, assigned, pledged or otherwise disposed of, and from exercising or attempting to exercise, or permitting to be exercised any rights whatsoever by said American Company or by anyone acting on its behalf as stockholders in said Union Company, and from exercising or permitting to be exercised any control over the business and affairs of said Union Company by said American Company or by any representative thereof or any person acting on its behalf.

That both the issue and the transfer to said Bell Company and to said American Company of stock in said Union Company were null and void and conveyed no title thereto, and the holding of stock in said Union Company by said Bell Company and said American Company has been at all times and now is null and void, and that the holding of all stock in said Union Company now standing in the name of any person or corporation and held by such person or corporation for and on behalf of said American Company or said Bell Company is also null and void, and the defendant Mizner, Secretary of said Union Company, is hereby directed to make appropriate entries on the books of said Union Company declaring all issues and transfers of stock to said Bell Company or to said American Company, or to anyone of the above named individual defendants or any one else for and on behalf of said American Company, null and void.

V.

That said American Company, and all of the other defendants holding any stock in the Union Company for or on behalf of the American Company, are hereby ordered and directed, within sixty (60) days from the date of the entry of this decree, to deposit with the master hereinafter provided for, duly endorsed in blank or to the order of said master, all

the certificates of stock representing, or purporting to represent, the shares of stock in the Union Company now held by or for said American Company, as aforesaid; that in the event that said American Company shall not, in compliance with this decree, deposit said certificates or any of them, within said sixty (60) days, the said certificates of stock, or such of them as shall not be so deposited, shall be, and the same are, hereby canceled and held for naught; that said master is hereby ordered and directed after the expiration of four (4) months and not later than six (6) months from the date of the entry of this decree, to cause the shares of stock in the Union Company held by or for said American Company, as aforesaid, to be sold (in such parcels as the master may deem will bring the highest aggregate price), at public auction at the judicial salesrooms of the Chicago Real Estate Board, 26 North Dearborn street, in the City of Chicago, after having first advertised said sale of stock once a week for three successive weeks, the last insertion of said advertisement to be at least thirty (30) days prior to the date of said sale, in at least one newspaper of general circulation published in the City of Chicago; and after paying from the proceeds of said sale the costs of said sale (including his master's commission not to exceed $200 for making said sale) said master shall turn over the entire balance of said proceeds to the American Company to be held by it subject to the following provisions:

(a) *Stock acquired from the Union Company.*

That the American Company shall be entitled to retain out of the proceeds of the sale of the stock so acquired by it or its predecessor, the Bell Company) as reimbursement for the consideration furnished or paid therefor to the Union Company such amount, if any, as the American Company shall prove on the accounting herein ordered was the value of the consideration found to have been paid or furnished by it (or its predecessor, the Bell Company) to the Union Company for said stock, as of the several dates when the same were furnished or paid, that said master in determining said amount shall charge said American Company with all amounts paid to it (or to its predecessor, the Bell Company) by the Union Company by way of dividends on the said stock to the said American Company (or its predecessor, the Bell Company), as of the dates of the payment thereof; and upon the balance of the credits to the American Company, or charges against the American Company, from time to

time, interest shall be credited or charged, as the case may be, at the rate of five per cent. (5%) per annum.

In making up said account the said credits accruing to the Union Company shall be applied as of the date of their accrual to the payment of interest, if any, which shall then have accrued upon the amount of the balance of credits in favor of the American Company (or its predecessor, the Bell Company), and the excess of such credits of the Union Company remaining shall be applied as of the date of their accrual to the reduction of the balance of the said credits in favor of the American Company; or, if at the time of the accrual of any such credits to the Union Company there shall be no balance of credits in favor of the American Company, such credit shall be charged against the American Company as of the date of such accrual. If any credit in favor of the Union Company be less than the accrued interest on the balance of the credits in favor of the American Company, the excess interest then accrued shall not be taken to augment the principal of credits in favor of the American Company; and the same rule in regard to the computation of interest and application of credits shall apply if at any time the balance of credits is in favor of the Union Company and against the American Company.

The said account shall be brought down to the date of the payment of the purchase price of the said stock so sold, as aforesaid, to the American Company.

If at said date the amount required to reimburse the American Company, as ascertained as aforesaid, shall exceed the proceeds of the sale of said stock, the American Company shall not be entitled to charge the Union Company with such deficiency, but if the proceeds of the sale of said stock turned over to said American Company shall exceed the amount required to reimburse the American Company for the consideration received by the Union Company for said stock, ascertained as aforesaid, the American Company shall be charged with such excess, together with interest thereon at the rate of five per cent. (5%) per annum from the date when said proceeds were turned over to said American Company, and the Union Company shall be credited with such excess and the accrued interest thereon in the general accounting ordered in this decree.

(b) *Stock acquired by the American Company (or its predecessor, the Bell Company) from persons, firms or corporations (other than said Bell Company or said Union Company)*:

The American Company shall be entitled to retain such amount of the proceeds of the sale of the said stock acquired from persons, firms or corporations (other than said Bell Company or said Union Company) as said American Company shall prove on the accounting herein ordered will reimburse it for the consideration furnished or paid by said American Company (or its predecessor, said Bell Company) for all of said stock acquired from persons, firms or corporations (other than said Bell Company, or said Union Company), plus interest at five per cent. (5%) per annum from the date of the several purchases or acquisitions of said stock to the date of the payment of said proceeds to said American Company, as aforesaid, after making due allowances for any dividends that were paid to said American Company (or said Bell Company) on said stock, plus interest at five per cent. (5%) per annum from the several dates of payment of said dividends to the date of the turning over of said proceeds to said American Company, as aforesaid; that the excess, if any, of the proceeds of the sale of said stock, over the amount found to constitute proper reimbursements to the American Company, as aforesaid, said American Company shall, upon the confirmation of the master's report, pay to the clerk of this court, with interest at five per cent. (5%) per annum on such excess from the date when said proceeds were turned over to said American Company; as aforesaid; and said clerk shall hold and distribute the funds so paid to him in accordance with the findings and directions of the master.

Said sale or sales of said stock shall be made by said master for cash or at the option of any purchaser, one-half of such purchase price cash and the balance thereof payable in six months from the date of said sale, such deferred payments to be evidenced by a note of each such purchaser and to be secured by a deposit with said master of the certificates of the stock so sold, and said master is directed immediately after said sale to report the sale to the court, and upon confirmation of said report and the full payment of said purchase price the master is directed to deliver to the purchaser or purchasers of said stock at said master's sale, the certificate

or certificates in his hands representing the stock so sold; and if it is necessary in order to enable the master to make the disposition and distrubtion of said shares of stock as in this decree directed to the several purchasers thereof, said master is authorized to surrender for cancellation any or all of the certificates of stock of the Union Company in his hands to the Union Company, and the appropriate officers of the company are hereby authorized and directed to issue new certificates of stock in said Union Company to said master or to such parties and in such amounts as he may direct for an aggregate number of shares equal to those for which said master shall surrender the certificates as aforesaid.

The court reserves the right upon good cause shown by any of the parties hereto to postpone the date of the sale above provided from time to time.

That none of the defendants herein, nor any person, partnership or corporation owned or controlled by or affiliated with said defendants, and no person, firm or corporation acting for or on behalf of any of said defendants shall become a bidder for or the purchaser of said stock so to be sold, or any portion thereof, and any sale made in violation of the provisions of this decree shall be void and this court reserves the right to reject any bids offered and to set aside any sales made in violation of the prohibitions herein contained.

That before confirmation of any sale of said shares of stock, or any part thereof, the purchaser or purchasers shall submit to an examination before said master (or before this court, if this court should hereafter so order) concerning what connection, if any, such proposed purchaser has with the American Company, or any other of the defendants or any person, firm or corporation controlled by or affiliated with any of them; and all the solicitors of all the parties to this cause shall be duly notified at least five (5) days in advance of any such examination of any such prospective purchaser, and of the name or names of any such prospective purchaser or purchasers so to be examined.

VI.

That said defendants and their officers, directors, servants, employes, agents and attorneys, and all persons conspiring with them or any of them are hereby permanently enjoined and restrained from transferring, assigning, pledging, or in any way disposing of any demand notes or other obligations

or evidences of indebtedness made by said Union Company and given for or purporting to represent an alleged indebtedness of said Union Company to said American Company, and said American Company, its officers, directors, servants, employes, agents and attorneys are hereby ordered to surrender the aforesaid notes or other obligations or evidences of indebtedness to the master hereinafter provided for, and said master is hereby instructed to cancel the same upon such surrender.

VII.

(a) That said complainants are entitled to an accounting from said American Company in accordance with the rights and equities of the parties as above set forth; that this cause be and the same hereby is referred to a master in chancery of this court or a special master to be hereafter designated or appointed by the court, for the purpose of taking, stating and reporting to this court an account between said American Company and said Union Company; that said American Company shall file with said master a detailed account with respect to the contracts, dealings and transactions hereinafter enumerated which said American Company (or its said predecessor, said Bell Company) had with said Union Company; that said American Company in presenting said account and said master in passing upon the same shall give full force and effect to the findings contained in this decree and shall be bound by all orders and instructions herein contained; that said American Company shall have the burden of proving all of the items contained in said account.

(b) Entries in books of account, or other documents in the possession of the receivers and purporting to be part of the regular business records of the Union Company may be offered in evidence by either party without preliminary proof of their authenticity in the absence of evidence tending to prove lack of authenticity, but subject at all times to all other objections.

(c) That said American Company in stating its account with said Union Company shall state all items of both credit and debit involved in or growing out of said transactions, contracts or dealings between said companies.

(d) That on said accounting said master shall make an allowance to said Union Company for any funds of said Union Company that were used for the sole benefit of the American Company and did not in any way inure to the benefit of the

Union Company; that in so far as any funds of said Union Company were used for the joint benefit of the American Company and the Union Company the master shall apportion the amount which is chargeable to each of said parties upon a fair and equitable basis, having regard to the benefits resulting to said companies respectively from the expenditures made for their joint benefit as aforesaid; that on said accounting said master shall charge the American Company with the expense or loss occasioned by rate cutting which was borne by the Union Company for the joint benefit of both companies to the extent to which the American Company was benefited thereby.

(e) That the burden of proof on the accounting herein directed rests upon the American Company to show the payments made by the American Company to the Union Company and that said payments were fairly used in the business of the Union Company.

(f) That in stating said account the master shall charge the American Company with all losses incurred by the Union Company by reason of the redemption on or about July 1, 1912, of the then outstanding bonds of said Union Company, including the amount paid by said Union Company by way of premium on the bonds redeemed and all other expenses in connection therewith, and the amount by which the interest payments on the money so advanced by said American Company to said Union Company has exceeded the amount of interest which would have accrued during the same period on said bonds if the same had continued outstanding and unredeemed.

(g) That said master in stating said account shall credit the American Company with the amounts found due to it from the Union Company under the provisions of this decree as of the dates when the several amounts accrued or became due, and shall charge said American Company with all sums found to be due from it to the Union Company under the terms of this decree as of the dates of the accruing of the several amounts so found to have become due from the American Company to the Union Company, and upon the balance of the account owing to the American Company or owing by the American Company from time to time interest shall be credited or charged, as the case may be, at the rate of five (5) per centum per annum. In making up said account the credits accruing to the Union Company (including all payments actually made) shall be applied as of the date of their accrual to

the payment of the interest, if any, which shall then have accrued upon the amount due to said American Company; and the excess of such credits remaining shall be applied as of the date of their accrual to the reduction of the principal of the indebtedness then owing to the American Company, or if at the time of the accrual of any such credit to the Union Company there be no balance then due to the American Company such credit shall be applied in said account as a charge against the American Company as of the date of such accrual. If any charge against the American Company be less than the accrued interest then due, the surplus of interest then accrued shall not be taken to augment the principal of the indebtedness due the American Company, and the same rule shall apply if at any time the balance due is a charge against the American Company.

In making up said account said American Company shall not be credited with any interest claimed to be due because of any provision in any of the notes or other evidences of indebtedness held by it, but shall only be entitled to interest at the rate of five (5) percentum per annum.

(h) That in said accounting said American Company shall be required to prove what would be a fair allotment to the Union Company by reason of the services rendered by it to the American Company in originating and receiving messages in the Union Company's territory that have been transmitted over the lines of the American Company since November 2, 1891, and in this connection said American Company shall state in detail the aggregate revenue received each year from such messages and the amount of the originating commission that has been heretofore paid on a per message basis and in the aggregate to said Union Company during each year that such business has been so handled, and shall state, so far as possible, the cost incurred in handling the same by said Union Company and all outlays of said Union Company in connection therewith, giving all the different items of such cost or outlay and the bases of determining the same, and said master from said account and the evidence submitted in connection therewith shall determine what amount should have been paid said Union Company as a fair and equitable originating commission to compensate the Union Company for the services rendered during each of the years aforesaid, and the aggregate amount thereof, and the Union Company in said accounting shall be credited as of the dates of the accrual thereof with such sums, if any, as the master finds such fair

and equitable commissions exceeded from time to time the amounts actually paid to said Union Company.

(i) That in said accounting said American Company shall be required to prove the fairness of the prorate allowance heretofore paid said Union Company by said American Company on all messages handled jointly by said American Company and said Union Company, and the Union Company and the American Company respectively shall be given credit for such amounts equitably due each on all such messages by way of prorate allowance as the master shall find proper from the evidence; that interest shall be credited or charged thereon, as the case may be, in accordance with the provisions of paragraph (g) hereof; and any final balance of such prorate allowances in favor of the Union Company so found by the master shall on such accounting be charged against the American Company, but no final balance of such prorate allowances, if any, found by the master in favor of the American Company shall on such accounting be credited to the American Company. In this connection said American Company shall state and prove the amount of the prorate which has been paid by said American Company to said Union Company on account of such joint business, and so far as possible the costs incurred by said Union Company and all the several items thereof and the bases of apportioning the same.

(j) That in said accounting the master shall charge to the American Company and credit to the Union Company all losses or injuries sustained by the Union Company by reason of improper diversions of messages from the lines of the Union Company to the American Company, whether by reason of the so-called 100-mile contract or otherwise, and the accounting under this clause (j) shall only include so much of the business diverted which with profit to itself could have been transacted by the Union Company and in regard to which data is obtainable which will enable the master to approximate with reasonable certainty the amount of loss or damage, if any, to the Union Company, and shall not include that portion of the business that was transacted by the American Company on lines located beyond the limits of said Union Company's territory and the accounting under this clause shall also be limited to such messages as could reasonably have been transmitted over the existing lines of the Union Company with slight changes therein.

(k) That said American Company shall state and prove so far as possible its gross revenue derived in each year covered

by this accounting from business originating or terminating in the territory of the Union Company and the costs so far as possible incurred by it in handling said business, together with the several items thereof and the bases of apportionment used in arriving at said revenue and costs, and such revenue and costs shall be considered by the master in connection with the other evidence heard in determining the amounts accruing in the accounting in this decree ordered.

That said American Company in stating the gross revenue derived by it from the telephone business transmitted over its lines as aforesaid shall, in the absence of definite proof as to the amount of revenue derived by said American Company during each year from the interterritorial business originating outside the territory of said Union Company and destined to points on lines or exchanges of said Union Company or its sublicensee or connecting companies, estimate the amount of revenue derived in each year from such incoming interritorial business as being equal to the amount derived in the same year from the outgoing interritorial business, to-wit, the business originating on the lines or exchanges of the Union Company or its connecting or sublicensee companies and destined to points outside said Union Company's territory.

(l) That said American Company in said accounting shall state and prove its conduct in relation to the so-called leased wire business carried on by it in said Union Company's territory and said master shall determine whether such conduct did in fact constitute unfair treatment of the Union Company and whether said leased wire business could have been profitably done by said Union Company either by itself or in connection with some other company and what amount, if any, of the profits that have accrued to said American Company from the said leased wire business, transacted by it in the Union Company's territory, should, under the provisions of this decree, be credited to said Union Company, and shall also determine whether said Union Company has received a fair division of the tolls received from the leased wire business, handled jointly by said American Company and said Union Company, and what amount, if any, should be charged on account thereof against said American Company.

(m) That the complainants are denied an accounting under the contracts and relations with the Electric Company, under the instrument rental provisions of the license and 4½ per cent. contracts and payments made thereunder, under the pole line attachment arrangements and under the provisions

of the license contracts limiting the building of Union Company's lines to Union Company's territory.

(n) That in said accounting there shall not be included any claims that said American Company may have against the receivers heretofore appointed by this court for any services rendered or equipment furnished to said receivers or otherwise, or any claims on the part of said receivers against said American Company or any of the other defendants herein.

(o) That an accounting is hereby directed of the amounts paid by the Union Company to the Bell Company as representing 15 per cent. of the extraterritorial tolls collected by the Union Company after the expiration of the fundamental Bell patents, and the master shall determine from the evidence what amount, if any, should be charged in the accounting against the American Company on account of said payments.

(p) That on the hearings before said master he shall fix the time within which said American Company shall account and within which it shall close its proofs in support of the accounts rendered by it as aforesaid and shall thereafter receive proofs from the complainants or any of them within such time as said master shall limit in opposition to such items of said accounts as may be objected to by said complainants or any of them, and said master shall consider such portions of the evidence as have already been taken in this cause, either by way of deposition or in open court so far as the same may be offered in evidence before the master by any of the parties hereto and so far as the same may be pertinent to the matters referred to said master; and said parties to this cause and all of them and their officers, agents and attorneys and the receivers appointed in this cause and their agents, employes and attorneys are hereby ordered to produce before said master as he may direct all books, papers and writings in their custody or under their control containing evidence pertinent to the matters herein referred to said master and said master is hereby authorized and directed to cause to come before him all witnesses, whose testimony he may deem necessary and to cause them to be examined under oath touching the matters hereby referred to said master at such times as he may appoint and said master is hereby ordered to give notice to the parties respectively or their respective solicitors of the time and place when and where said accounting will be taken and evidence in support of and in opposition

thereto will be heard, and it is further ordered that said master make his report herein with all convenient speed with his conclusions of law and fact and with all evidence, oral and documentary, taken before the master and that the master or any of the parties hereto be at liberty to apply to this court for such further directions and instructions as may be necessary to carry said decree into effect according to the true intent and purpose thereof.

(q) That the receivership heretofore created by this court shall continue pending the taking of the accounting herein or until the further order of the court.

VIII.

That the defendant, the American Company, in its cross bill filed in this cause is seeking affirmative relief; that under the familiar rule that "he who seeks relief in a court of equity must come prepared to do equity" the determination of the rights of said defendant under its cross bill will be postponed until such time as an accounting, as directed herein, shall be had between said American Company and said Union Company.

IX.

That the complainants are entitled to be reimbursed for such part of their reasonable expenses heretofore or hereafter incurred in instituting and prosecuting this cause, including usual, customary and reasonable solicitors' fees, as have heretofore resulted or may hereafter result in benefit to the Union Company, and the matter of determining the amount of such reasonable expenses including said solicitors' fees is hereby referred to the master provided for herein for hearing and report in connection with the accounting hereinbefore ordered; without prejudice to the power of the court to pass upon any petitions that may be presented by the complainants (after the appeals, if any, from the entry of this decree have been disposed of) for payments on account towards said expenses, including said solicitors' fees.

That all such amounts as shall be fixed and determined by this court as the reasonable expenses incurred by said complainants, including said solicitors' fees, shall constitute a first lien on all funds saved to or recovered by the Union Company as a result of this litigation; without prejudice, how-

ever (in addition to the lien hereby already provided), to the power of the court hereafter to adjudicate the question of priority over any claim of the American Company of any claim of the complainants for the payment of said expenses, including solicitors' fees.

That all taxable costs of this proceeding heretofore incurred including the costs incurred by the complainants in the taking of depositions filed herein shall be taxed against and paid by said American Company, and the court reserves the question, of taxing all other costs and expenses incurred by the Union Company until further order.

Thereupon the complainants, and each of them, pray an appeal to the Appellate Court of Illinois, for the First District, which is hereby granted upon their, or either of them, giving, within sixty (60) days from the date hereof, an appeal bond in the penal sum of five thousand dollars ($5,000), with surety to be approved by the court, and thereupon the defendants, and each of them, also pray an appeal to the Appellate Court of Illinois, for the First District, which is hereby granted upon their, or either of them, giving, within sixty (60) days from the date hereof, an appeal bond in the penal sum of five thousand dollars ($5,000), with surety to be approved by the court, and the time within which a certificate of evidence may be filed is hereby fixed at one hundred and twenty (120) days from the date hereof.

Enter:

.....

Judge of the Superior Court.

Dated this 10th day of July, 1917.

STATE OF ILLINOIS, } ss.
County of Cook. }

I, M. S. Szymczak, clerk of the Superior Court of Cook County, in and for the State of Illinois, and the keeper of the records, files and seals thereof, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain decree made and entered of record in said court in a certain cause lately pending in said court on the chancery side thereof, wherein William A. Read, *et al.*, were complainants and Central Union Telephone Company, *et al.*, were defendants.

In Witness Whereof, I have hereunto set my hand, and affixed the seal of said court, at Chicago, this 24th day of April, A. D. 1929.

M. S. SZYMCZAK,
Clerk.

(Seal)

UNITED STATES OF AMERICA

STATE OF ILLINOIS, } ss.
County of Cook. }

I, Jacob H. Hopkins, chief justice of the Superior Court of Cook County, in and for said county, do hereby certify that M. S. Szymczak, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was, at the time of signing and sealing the same, the clerk of said Superior Court of Cook County, and keeper of the seal and records thereof, duly elected, commissioned and qualified to office; that full faith and credit are, and of right ought to be given to all his official acts as such, in all courts of record in the United States and elsewhere, and that his attestation is in due form of law and by the proper officer.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said court, at the City of Chicago, in said County this 24th day of April, A. D. 1929.

JACOB H. HOPKINS,
Chief Justice of the Superior Court of Cook County.

(Seal)

UNITED STATES OF AMERICA

STATE OF ILLINOIS, } ss.
County of Cook. }

I, M. S. Szymczak, clerk of the Superior Court of Cook County, in and for said county, do hereby certify that Jacob H. Hopkins, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was, at the time of signing and sealing the same, the chief justice of said Superior Court of Cook County, and was duly elected, commissioned and qualified to office; that full faith and credit are, and of right ought to be given to all his official acts as such, in all courts of record in the United States and elsewhere, and that his attestation is in due form of law and by the proper officer.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Chicago, in said county, this 22th day of April, A. D. 1929.

M. S. SZYMCZAK,
Clerk.

(Seal)

CITY'S EXHIBIT 125.

At a Term of the Appellate Court, Begun and held at Chicago, on Tuesday, the Fourth day of March, in the year of our Lord One Thousand Nine Hundred and Nineteen, within and for the First District of the State of Illinois.

Present Hon. John M. O'Connor, Presiding Justice.
" " Charles M. Thomson, Justice.
" " Thomas Taylor, Jr., Justice.

Charles W. Peters, Sheriff.

James S. McInerney, Clerk.
William A. Reed, *et al.*,
Appellees.
No. 23664 *vs.*
Central Union Telephone Company, *et al.*,
Appellants.

Appeal from
Cook Superior.
Error to .....

BE IT REMEMBERED, That on the 8th day of April, A. D. 1919, it being one of the days of the March Term, A. D. 1919, the following proceedings were had and entered of record in said cause, to-wit:

William A. Read, *et al.*,
Appellees,
23664 —*vs*—
Central Union Telephone Company et al. On Appeal of American Telephone and Telegraph Company,
Appellant.
William A. Read, *et al.*,
Appellants,
23657 —*vs*—
Central Union Telephone Co., *et al.*,
Appellees.
William A. Read, *et al.*,
Appellees,
23663 —*vs*—
Central Union Telephone Co. *et al.* On Appeal of Chicago Telephone Co., *et al.*,
Appellants.
William A. Read, *et al.*,
Appellees,
23670 —*vs*—
Central Union Telephone Co., *et al.* On Appeal of Central Union Telephone Co.,
Appellant.

} Appeals from Final Decree entered in the Superior Court, Cook County.

This cause coming on to be heard upon the joint motion of the Appellants in the above entitled consolidated causes. And the Appellants therein for the reversal of the decree of the Superior Court here appealed from, and it being stated in open court by the solicitors for the respective parties that all matters in controversy in the above entitled cause have been settled and adjusted by compromise between the parties; And this Court being fully advised in the premises and all parties to the above entitled appeals being present in Court by their respective Counsel and desiring and consenting to the entry of this order and decree.

It is hereby ordered, adjudged and decreed that the decree of the Superior Court here appealed from is hereby reversed and the said Superior Court is hereby directed to vacate said decree and to enter its decree and order in the suit of Caroline S. Read, Joseph H. Seaman and George W. Wickersham Executors *et al.* vs. Central Union Telephone Company *et al.*, General Number 299,689 in said Superior Court, which decree shall order the Receiver heretofore appointed in said suit by said Superior Court to forthwith turn over and deliver to the Central Union Telephone Company all property assets and effects of the said Central Union Telephone Company held by or in the possession or control of said Receivers together with all property acquired by the Receivers since their appointment, including real estate and stocks, bonds, notes and other choses in action which shall be conveyed, assigned and transferred to the Central Union Telephone Company, the said property to be so delivered, turned over, conveyed, assigned and transferred to the Central Union Telephone Company to be subject only to the retention of such jurisdiction thereover by the said Superior Court as may be necessary in order to enable the said Court to properly wind up the said Receivership.

It is further ordered, adjudged and decreed that the said Superior Court be directed to immediately proceed to settle the accounts of the said Receivers and upon the settlement of their said accounts to discharge them, and that as soon as the accounts of the said Receivers have been so settled and they have been discharged the said Superior Court be directed to enter in said suit a final decree dismissing by consent of the parties the original supplemental and cross bills without costs to either party in either the Superior or Appellate Courts.

Enter.

JOHN M. O'CONNOR
CHARLES M. THOMSON
THOMAS TAYLOR, JR.

The form of this order and the entry thereof are hereby approved.

BUTLER, LAMB, FOSTER & POPE
Solicitors for Read et al.

JOHN P. WILSON and A. T. GUERNSE
Solicitors for American Telephone and Telegraph Company.

EDGAR B. JOHNSON
Solicitors for Central Union Telephone Company.

N. C. SEARS and E. S. WILSON
Solicitors for Chicago Telephone Company et al. named as Appellants, etc.

I, William Walter Scott, Clerk of the Appellate Court, in and for the First District of the State of Illinois, and keeper of the records, files and seal thereof, Do Hereby Certify, That the foregoing is a true copy of the final order of the said Appellate Court in the above entitled cause, of record in my office.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the said Appellate Court, at Chicago, this 27th day of May, in the year of our Lord one thousand nine hundred and twenty-nine.

WILLIAM WALTER SCOTT,
Clerk of the Appellate Court of the First District, Illinois.

CITY'S EXHIBIT 144

PLACITA—SUPERIOR COURT OF COOK COUNTY (ORDER)
UNITED STATES OF AMERICA

State of Illinois } ss.
County of Cook }

PLEAS, before the Honorable William E. Dever, one of the Judges of the Superior Court of Cook County, in the State of Illinois, holding a branch Court of said Court, at a regular term of said Superior Court of Cook County, begun and holden at the Court House, in the City of Chicago, in said County, and State, on the first Monday, being the 7th day of April, in the year of our Lord, one thousand nine hundred and nineteen, and of the Independence of the United States of America, the one hundred and forty-third.

Present:—The Honorable WILLIAM E. DEVER,
Judge of the Superior Court of Cook County.

MACLAY HOYNE,
States Attorney.

CHARLES W. PETERS,
Sheriff of Cook County.

Attest:

JOHN KJELLANDER,
Clerk.

Be it remembered, that heretofore, to-wit: on the 23rd day of April in the year of our Lord one thousand nine hundred and nineteen the same being one of the days of the April Term of the Superior Court of Cook County, the following among other proceedings were had in said Court and entered of record, to-wit:

William A. Reid, et al
vs.
Central Union Telephone Company et al } Bill

This cause coming on to be heard upon the final report and petition of the receivers, this day filed herein, submitting to the court their final account as such receivers, as provided

in and by the order entered herein on the eighth (8th) day of April, 1919, and praying that an order may be entered herein approving said account and approving the transfers heretofore made by your petitioners to said Central Union Telephone Company under and pursuant to the provisions of said order entered herein on said eighth (8th) day of April, 1919, and for all such other further or different relief as the court may deem equitable and just, and all parties having been duly notified and being present in court by their respective counsel, and consenting to the entry of this order, and evidence having been heard in open court, and the court being fully advised in the premises, the court finds:

That in and by said order, so entered by this court on said eighth (8th) day of April, 1919, it was ordered, adjudged and decreed that the receivers herein forthwith assign, transfer, convey, turn over and deliver to Central Union Telephone Company, one of the defendants herein, all property, assets and effects, including real estate and stocks, bonds, notes and other choses in action of said Central Union Telephone Company, held by or in the possession or control of said receivers, together with all property, assets and effects acquired by said receivers since their appointment as such, that said last mentioned order further provided that this court retain such lien upon and jurisdiction over said property, assets and effects as might be necessary to enable this court to properly wind up said receivership, and further directed that said receivers file their final account as such receivers within thirty (30) days from the entry of said order, and that upon the final and complete settlement of said account to the satisfaction and with the approval of this court, said receivers should be discharged, and that thereupon the original supplemental and cross bills herein filed should be dismissed without cost to any party in either this court or said Appellate Court of Illinois; and that this court should retain jurisdiction of this cause for the purpose of settling the final accounts of and discharging said receivers, and properly winding up said receivership and dismissing said original, supplemental and cross bills as aforesaid.

That since the entry of said order herein on said eighth (8) day of April, 1919, the petitioners have assigned, transferred, conveyed, turned over and delivered to said Central Union Telephone Company, all property, assets and effects including real estate and stocks, bonds, notes and other choses

in action of said Central Union Telephone Company held by or in the possession or control of said receivers, together with all property, assets and effects acquired by said receivers since their appointment as such. That said petitioners have received from said Central Union Telephone Company a receipt in writing for all said property, assets and effects, which said receipt is attached to said petition and marked Exhibit "A" and made a part thereof.

That prior to the entry of said order herein on said eighth (8th) day of April, 1919, and on or about the twenty-eighth (28) day of February, 1919, said petitioners filed in the office of the clerk of this court a report in writing, covering the results of the administration of the Central Union Telephone Company property by said petitioners, from the commencement of the receivership herein on the thirty-first (31st) day of January, 1914, up to and including the thirty-first (31st) day of July, 1918, and notified the solicitors for the respective parties herein plaintiff and defendant, of the filing herein of said report and delivered true copies thereof to said solicitors for said respective parties.

That said report contains a true and correct statement as to said petitioners' having opened and kept proper books of account from the time when they were appointed receivers herein, and as to said petitioners having stated in said books of account all the earnings, expenses, receipts and disbursements of their trust, and that their system of accounts, in use from the time of their appointment as receivers, conformed to all the rules and regulations prescribed by the Interstate Congress Commission and to all the rules and regulations prescribed by the Public Utilities Commissions of the States of Illinois, Indiana and Ohio.

That said petitioners attached to their said report statements summarizing the results of their administration of the property of said Central Union Telephone Company, said statements showing correctly assets and liabilities, income, accounts payable in suspense and growth in telephone stations, and also set forth in said report explanations of said statements.

That said petitioners further stated in said report that from the beginning of the receivership, they had furnished counsel for all the parties to this suit, and also the comptroller of the American Telephone and Telegraph Company and the President of the Central Union Telephone Company, with

copies of the monthly statements, prepared by said petitioners' General Auditor, covering all phases of the conduct of the business, and attached to said report copies of the forms used by the general auditor, in making up said monthly statements for the year 1918 and stated in said report that their monthly for previous years were substantially in the same form except for minor modifications; that said report further set forth that said counsel for the parties to this suit, said comptroller of said American Telephone and Telegraph Company, and said president of said Central Union Telephone Company had also been furnished copies of said petitioners' monthly reports as receivers and attached copies of the forms of such monthly reports used during the year 1918, and stated in said report that substantially the same forms of said monthly reports had been used in previous years; that said report further stated that said counsel for the parties to this suit, said comptroller of said American Telephone and Telegraph Company, and said President of said Central Union Telephone Company, had also been furnished with complete copies of the annual reports prepared by said petitioners' General Auditor, for each of the first four (4) years of the receivership herein, and that said annual reports were in substantially the same form as said monthly reports, and also that said counsel for the parties to this suit had been furnished with copies of the annual reports, prepared by Edward P. Moxey & Company, a firm of certified accountants, employed by said petitioners shortly after their appointment as receivers herein, to audit and verify said petitioners' books and accounts, which said firm had continuously, from and after the time when they were first so employed, been in said petitioners' employ for the purpose of auditing and verifying said petitioners' said books and accounts; that said report of said petitioners, so filed herein as aforesaid, further stated that counsel for the parties to this suit have been granted access to said petitioners' files and records at all times upon their request; that said petitioners have attached to their said petition, marked Exhibit "B" a copy of their said report, filed herein on or about said twenty-eighth (28th) day of February, 1919, attached to which said report is an approval thereof signed by the solicitors for the respective parties to this suit, and said petitioners have made the said report a part of their said petition as if set forth therein at length.

That each and all of the statements hereinbefore set forth, contained in said report of said receivers, filed herein on or

about said twenty-eighth (28th) day of February, 1919, are true.

That from the time when said petitioners were appointed as receivers herein, up to the present time, they have, in many instances, (as appears from the files and record herein, reference to the same being hereby made for greater certainty) applied to the court for instructions as to their duties, or for permission to enter into certain contracts, or to do certain other acts, and that, in each and every instance when such instructions have been given by the court, said petitioners have faithfully acted in accordance with the same, and in each and every instance when such permission was given to them by the court, they have either availed themselves of the same and acted strictly in accordance therewith, or have not availed themselves of such permission for the reason that it became impracticable, or, in the best judgment of said petitioners, inexpedient, or not for the best business interests of the receivership herein to avail themselves of such permission.

That in connection with carrying on the business of the receivership herein, said petitioners have, in many instances, in accordance with their judgment as to what action would be for the best interests of the receivership, acted under the powers conferred upon them by the order appointing them receivers herein or by subsequent orders, general in their terms, without making applications to the court for instructions or for permission to act, but that, in such instances, they have conferred with, and been guided by, the advice of their counsel as to the legal questions involved.

That up to and including 12 o'clock midnight on said thirty-first (31st) day of July, 1918, said petitioners were in possession and control and operated as receivers, as aforesaid, the telephone system of said Central Union Telephone Company, of which they were, as aforesaid, receivers, but that from and after 12 o'clock midnight of said Thirty-first (31st) day of July, 1918, and continuously up to the time of the completion of the transfers of the property, assets and effects of said Central Union Telephone Company, to said Company, as hereinbefore set forth, the postmaster general of the United States, Albert S. Burleson, duly acting under and pursuant to the authority conferred upon him by the proclamation of the President of the United States, dated on or about the twenty-second (22nd) day of July, 1918, and a joint resolu-

tion, (hereinafter more particularly referred to) passed by the house of representatives and senate of the United States on or about the sixteenth (16th) day of July, 1918, was in sole possession and control of and operated said telephone system through said petitioners as his agents and representatives, and the agents and representatives of the United States, and operated said telephone system in the name of said petitioners as receivers of said Central Union Telephone Company, transacting all the business of operation in said name, collecting and depositing all revenues from the operation in said name, paying the expenses of operation in said name, operating said telephone exchanges in said name and furnishing telephone service and transmitting messages in said name.

That said petitioners are not bound to render herein any account as to the business of the operation of said telephone system and the revenues derived from same, or the expenses thereof, or as to any other matter connected with said operation since said 12 o'clock midnight on said thirty-first (31st) day of July, 1918.

That as hereinbefore found, said report of said petitioners, filed herein on or about said twenty-eighth (28th) day of February, 1919, has been approved by the solicitors for all of the parties to said suit, on behalf of their respective clients, as appears by exhibit "B" to said petition; and that said report is a true and correct account and report of the operation and management of said telephone property by said petitioners as receivers as aforesaid, during the period from the date of their appointment as such receivers up to and including said thirty-first (31st) day of July, 1918, and that said solicitors for all of the parties to this suit, including said Central Union Telephone Company, have on behalf of their respective clients also waived the making of any further account or report herein by said receivers as to any of the actings, doings, receipts and disbursements of said receivers during the period last aforesaid, and have, on behalf of their respective clients, also waived the making of any account or report herein by said receivers of any of their actings, doings, receipts or disbursements as such receivers since said thirty-first (31st) day of July, 1918, in connection with any of the receivership property, in any matter or matters whatsoever.

That on or about the third (3d) day of January, 1919, said petitioners filed a petition herein, setting forth said joint resolution passed by the House of Representatives and Sen-

ate of the United States on or about said sixteenth (16th) day of July, A. D. 1918, authorizing and empowering the president during the continuance of the present war to take possession and assume control of any telephone system and operate same, which said joint resolution provided that just compensation should be made for such possession, control or operation, and that acting under said joint resolution said president did, on or about the twenty-second (22d) day of July, 1918, issue a certain proclamation setting forth that, under and by virtue of the powers set forth in said resolution and of all other powers thereto enabling him, he did by said proclamation take possession and assume control, from and after 12 o'clock mid-night so said thirty-first (31st) day of July, 1918, of every telephone system within the jurisdiction of the United States, and directed that the supervision, possession, control and operation of any such telephone system should be exercised by and through the postmaster general, Albert S. Burleson.

That in and by said petition filed herein on said third (3d) day of January, 1919, said petitioners showed to the court that under date of October 4, 1918, the American Telephone and Telegraph Company made a proposal to the postmaster general with respect to just compensation for use of the properties owned by it and such other companies, comprising the Bell System, including the Central Union Telephone Company as should within twenty-five (25) days thereafter in writing indicate to the postmaster general their purpose to join therein during the period of Federal control provided for in said joint resolution, which said time for said petitioners so to indicate such purpose, was duly extended by the postmaster general up to and including April 15, 1919.

That subsequent to said fourth (4th) day of October, 1918, said American Telephone and Telegraph Company wrote two letters to said petitioners, dated respectively October 11, and October 28, 1918, in which said American Telephone and Telegraph Company stated it would enter into an agreement with said petitioners regarding the matter of said compensation, which said letters were attached as exhibits to said petition regarding compensation heretofore filed herein on said third (3rd) day of January, 1919.

That in and by said last mentioned petition, said petitioners asked the instructions of the court as to whether or not they should accept said proposition of said American Tele-

phone and Telegraph Company, or what other course they should pursue in the matter.

That subsequently, on the eleventh (11th) day of March, 1919, said petitioners filed herein certain amendments in writing to their said petition filed herein on said third (3d) day of January, 1919 in which said amendments said petitioners set forth two certain other letters from said American Telephone and Telegraph Company to said petitioners dated respectively February 19 and March 5, 1919, copies of which said letters were attached to said amendments.

That subsequently and on or about the ninth (9th) day of April, 1919, a hearing was had herein upon said amendments thereto filed herein on said eleventh (11th) day of March, 1919, and this court thereupon entered an order herein, authorizing said petitioners to accept said offer of said American Telephone and Telegraph Company set out in said petition and the exhibits thereto, (including said letters dated respectively October 11 and October 28, 1918, and February 19, and March 5, 1919) as compensation for the use of the receivership telephone properties during the period of Federal control.

That upon the entry by the court of the order last aforesaid, said petitioners accepted said offer of said American Telephone and Telegraph Company, and sent a telegram to said postmaster general, under date of April 10, 1919, in which they indicated to him their purpose to join in said proposal regarding compensation made to him by said American Telephone and Telegraph Company, as modified by said two letters, dated respectively February 19 and March 5, 1919, from said American Telephone and Telegraph Company to said petitioners, relating to the matter of said compensation and approved by said postmaster general.

That said petitioners have heretofore duly transferred and asigned to said Central Union Telephone Company all their right, title and interest in and to any compensation which, as receivers as aforesaid they would be entitled to receive from the United States Government or from said American Telephone and Telegraph Company, under their said contract with it, for use of the Central Union Telephone properties and system during the period of Federal control.

That contemporaneously with said assignment, transfer and conveyance by said petitioners to said Central Union

Telephone Company, as hereinbefore found, and as part of the consideration therefor, said Central Union Telephone Company has assumed and agreed (so far as it legally may) to perform all the covenants and agreements by said petitioners contained in any and all contracts, leases, deeds or other instruments in writing at any time heretofore executed between said petitioners as receivers, as aforesaid, and any other firm or corporation whatsoever, and also all the covenants and agreements, express or implied, contained in any deed, bill of sale, assignment or endorsement to be executed by said petitioners, as receivers as aforesaid, in connection with said assignment, transfer and conveyance to said Central Telephone Company and also to forever indemnify and save harmless said petitioners from and against any and all liability on any of said covenants and agreements, provided to be assumed, as aforesaid by said Central Union Telephone Company, and also from and against any and all liability on any and all claims and demands of any kind or nature whatsoever, whether in contract or in tort, that may at any time hereafter be made by any person, firm or corporation against said petitioners, or any of them, for or on account of anything heretofore or at any time hereafter done or omitted to be done by said petitioners, as receivers as aforesaid.

It is accordingly ordered, adjudged and decreed, that said report of said receivers, heretofore filed herein on or about said twenty-eighth (28th) day of February, 1919, be, and the same hereby is approved and that said petitioners, as receivers as aforesaid, are not bound to make any further account or report herein of their actings, doings, receipts or disbursements, as such receivers, during the period from said thirty-first (31st) day of January, 1914, up to and including said thirty-first (31st) day of July, 1918, or to make any account or report herein of any of their actings, doings, receipts or disbursements, as such receivers, since said thirty-first (31st) day of July, 1918, in connection with any of the receivership property, in any matter or matters, whatsoever, and that the transfers heretofore made by said petitioners, as receivers as aforesaid, to said Central Union Telephone Company, were, in all respects properly made under and in conformity with the provisions of said order entered herein on said eighth (8th) day of April, 1919, and should be, and the same hereby are, in all respects fully approved and confirmed.

It is further ordered, adjudged and decreed, that the title to all of the property, assets and effects, held by said petitioners, as aforesaid, and assigned, transferred and conveyed by their said assignments, transfers and conveyances, to said Central Union Telephone Company, is now fully vested in said Central Union Telephone Company, free and clear of any lien thereon in favor of said petitioners as receivers as aforesaid, or of any of the parties to this suit, or of any other person, firm or corporation, and that said receivers should be, and they hereby are, discharged as such receivers, and the court further finds that their bonds as such receivers should be cancelled, and orders and decrees that the original, supplemental and cross bills herein should be, and they hereby are, dismissed without costs to any of the parties hereto.

It is further ordered, adjudged and decreed, that said petitioners and each of them, shall have the right at any time hereafter, to have access to, and to examine, any of the books, files, documents or papers assigned, transferred or turned over by them to said Central Union Telephone Company, under the provisions of said order entered herein on said eighth (8th) day of April, 1919, for the purpose of obtaining such information as they may desire as to any claim or demand which may at any time hereafter be made against them or any of them, by any person, firm or corporation whatsoever, for or on account of any act or omission of them or any of them, in connection with their management as receivers as aforesaid, of any of the property at any time heretofore held by him as receivers herein, or in their possession or control as such receivers.

State of Illinois } ss.
County of Cook. }

M. S. Szymczak, Clerk of the Superior Court of Cook County, in and for the State of Illinois, and the keeper of the records, files and seals thereof, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain Order made and entered of record in said court in a certain cause lately pending in said Court on the Chancery side thereof, wherein William A. Reid et al was complainant and Central Union Telephone Company et al was defendant.

In Witness Whereof, I have hereunto set my hand, and affixed the seal of said Court, at Chicago, this 3rd day of June A. D. 1929.

M. S. Szymczak,

(Seal) *Clerk.*

CITY'S EXHIBIT 157.

In answer to question,
Page 2071, Transcript of Record.*

CENTRAL UNION TELEPHONE COMPANY

BALANCE SHEET

Prior to and Subsequent to Receivership.

	Jan. 31, 1914	Apr. 30, 1919
ASSETS.		
Total Fixed Capital	$34,858,889.96	$50,162,091.60
Construction Work in Progress	338,239.65	588,890.34
Investment Securities	943,664.35	3,137,404.50
Advances to System Corporations for Construction, etc.	1,457,412.94	104,554.27
Miscellaneous Investments	.....	112,631.72
Total Permanent and Long Term Investments	$37,598,206.90	$54,405,572.43
Cash and Deposits	145,566.52	1,484,848.99
Marketable Securities	37,557.17	201.42
Bills Receivable	14,308.56	70,756.98
Accounts Receivable	715,878.97	1,276,867.09
Materials and Supplies	630,148.51	1,041,803.81
Total Working Assets	1,543,459.73	3,874,478.29
Accrued Income Not Due	14,207.36	30,637.24
Sinking Fund Assets	.....	24.47
Prepayments	67,909.42	151,646.31
Unamortized Debt Discount and Expense	.....	.....
Other Deferred Debits	352,742.04	99,920.85
Total Deferred Debit Items	420,651.46	251,591.63
Total Assets	$39,576,525.45	$58,562,279.59

City's Exhibit No. 157 155

LIABILITIES.

Capital Stock—Common	$ 5,450,927.50	$ 5,450,927.50
Capital Stock—Preferred	.....	.....
Capital Stock Installments	.....	.....
Total Capital Stock	5,450,927.50	5,450,927.50
Premiums on Capital Stock	.....	.....
Funded Debt	23,500.00	696,600.00
Advances from System Corporations for Construction, etc.	35,620,000.00	35,620,000.00
Total Long Term Debt	35,643,500.00	36,316,600.00
Bills Payable	23,500.00	20,000.00
Accounts Payable	1,368,853.86	20,074,325.38
Total Working Liabilities	1,392,353.86	20,094,325.38
Accrued Liabilities Not Due	280,456.00	739,798.48
Unextinguished Premium on Debt	.....	.....
Insurance and Casualty Reserves	7,271.39	37,495.38
Liability for Employees' Benefit Fund	177,465.13	175,004.85
Liability on Account of Other Provident Funds	.....	.....
Other Deferred Credit Items	.....	76,197.23
Total Deferred Credit Items	184,736.52	288,697.46
Reserve for Accrued Depreciation	1,381,312.77	8,038,673.97
Reserve for Amortization of Intangible Capital	220.97	35,228.88
Total Fixed Capital Reserves	1,381,533.74	8,073,902.85
Undivided Profits, Since December 31 last	*126,953.33	*455,798.72
Appropriated Surplus	.....	.....
Corporate Surplus Unappropriated	*4,630,028.84	*11,946,173.36
Total Surplus and Undivided Profits.	*4,756,982.17	*12,401,972.08
Total Liabilities	$39,576,525.45	$58,562,279.59

*Red—Bold face type.

City's Exhibit 157-a.

In answer to question,
Page 2070, Transcript of Record.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
CENTRAL UNION TELEPHONE COMPANY STOCK ACQUIRED BY THE AMERICAN TEL. AND TEL. CO. IN 1919.

Owned by A. T. and T. Co. April 1, 1919	52,271-31/40	Shares
Acquired by A. T. and T. Co. in April, 1919	2,020-3/4	"
" " " " May, "	45-1/2	"
" " " " June, "	35-1/2	"
" " " " July, "	13-1/2	"
" " " " August, "	7	"
" " " " Sept., "	2-1/2	"
" " " " October, "	43	"
" " " " November, "	23-1/4	"
" " " " December, "	1/2	"
Owned by A. T. and T. Co., December 31, 1919	54,463-11/40	"
In Hands of Public, December 31, 1919	46	"
Total Outstanding, December 31, 1919	54,509-11/40	"

CITY'S EXHIBIT 157-b.

In answer to question,
Page 2070, Transcript of Record.*

Receivership of Central Union Telephone Company was terminated at midnight April 15, 1919. At that time, the amount of unpaid License Revenue (including the payment ordinarily due April 10, 1919) was $2,227,039.88.

In May, 1919, the Central Union Telephone Company paid its License Revenue for the period August, 1918 to April, 1919, inclusive, and thereafter paid currently. This left unpaid License Revenue for the years 1914 through July 31, 1918 of $1,825,053.81. In March, 1920, the amount was paid in full.

The standard license agreement stating and reaffirming the contractual relations between the American Telephone and Telegraph Company and the Central Union Telephone Company is dated May 29, 1919. Receivership ended April 16, 1919. After the final sale in 1920 of all physical property, this agreement automatically terminated.

*Red—Bold face type.

City's Exhibit 157-c.

In answer to question,
Page 2071, Transcript of Record.

CENTRAL UNION TELEPHONE COMPANY

BALANCE SHEET

DECEMBER 31, 1919

ASSETS

Total Fixed Capital	$52,725,611.58
Construction Work in Progress	318,029.66
Investment Securities	3,687,986.56
Advances to System Corporations for Construction, etc	100,206.14
Miscellaneous Investments	89,426.22
Total Permanent and Long Term Investments	$56,921,260.16
Cash and Deposits	$ 175,871.26
Marketable Securities	4,151.42
Bills Receivable	64,732.15
Accounts Receivable	1,865,358.54
Materials and Supplies	1,416,834.84
Total Working Assets	$ 3,526,948.21
Accrued Income Not Due	$ 31,358.22
Sinking Fund Assets	55.97
Prepayments	165,041.76
Unamortized Debt Discount and Expense	.....
Other Deferred Debits	72,448.94
Total Deferred Debit Items	$ 237,546.67
Total Assets	$60,717,113.27

City's Exhibit No. 157-c

LIABILITIES

Capital Stock—Common	$ 5,450,927.50
Capital Stock—Preferred	.....
Capital Stock—Installments	.....
Total Capital Stock	$ 5,450,927.50
Premiums on Capital Stock	.....
Funded Debt	$ 1,090,350.00
Advances from System Corporations for Construction, etc.	42,400,033.19
Total Long Term Debt	$43,490,383.19
Bills Payable	$ 51,250.00
Accounts Payable	15,422,815.28
Total Working Liabilities	$15,474,065.28
Accrued Liabilities Not Due	$ 864,140.81
Unextinguished Premium on Debt	.....
Insurance and Casualty Reserves	$ 46,643.36
Liability for Employees' Benefit Fund	180,000.00
Liability on Account of Provident Funds	.....
Other Deferred Credit Items	89,969.21
Total Deferred Credit Items	$ 316,612.57
Reserve for Accrued Depreciation	$ 9,067,197.84
Reserve for Amortization of Intangible Capital	51,888.22
Total Fixed Capital Reserves	$ 9,119,086.06
Undivided Profits from August 1st	$ ***945,259.60**
Appropriated Surplus	.....
Corporate Surplus Unappropriated	***13,052,842.54**
Total Surplus and Undivided Profits	***13,998,102.14**
Total Liabilities	$60,717,113.27

*Red—Bold face type.

City's Exhibit 157-d.

In answer to question,
Page 2071, Transcript of Record.*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AMOUNTS ADVANCED TO CENTRAL UNION TELEPHONE COMPANY

1913-1920

1913	$2,900,000
1914	.....
1915	.....
1916	.....
1917	.....
1918	.....
1919	.....
1920	551,471

The above excludes the following unpaid current receivables transferred in December, 1919, to Open Account Loan carrying interest at 6%.

Unpaid tolls 1913-1919	$4,954,979.38
Unpaid License Revenue 1914 to July 31, 1918	1,825,053.81
Total	$6,780,033.19

This debt was liquidated in 1920.

*Red—Bold face type.

CITY'S EXHIBIT 157e.

In answer to question,
Pages 2060 and 2067, Transcript of Record.*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
AVERAGE OUTSTANDING ADVANCES TO CENTRAL UNION TELEPHONE COMPANY

(Excluding Unpaid Current Receivables)

1913	$34,303,000
1914	35,620,000
1915	35,620,000
1916	35,620,000
1917	35,620,000
1918	35,620,000
1919	36,185,000
1920	36,434,000

*Red—Bold face type.

City's Exhibit 157-f.

In answer to question,
Page 2072, Transcript of Record.*

CENTRAL UNION TELEPHONE COMPANY
SALE OF PLANT TO INDIANA BELL TELEPHONE COMPANY

Pursuant to an agreement made February 10, 1920 the Indiana Bell Telephone Company purchased on March 31, 1920, the entire Telephone plant including Materials and Supplies and certain current assets of the Central Union Telephone Company in the State of Indiana (exclusive of some property in the City of Terre Haute which is excepted in the agreement.)

The consideration received by the Central Union Telephone Company for the plant and other assets in question was..	$18,368,700.49

In addition, the following liens were assumed by the Indiana Bell Telephone Company:

A part of the property is sold subject to—

(a)	The lien of the first mortgage of the South Bend Home Telephone Company dated July 15, 1902 and securing the payment of the First Mortgage 6% Gold Bonds of said Company of even date, due July 15, 1932, of which there are outstanding bonds of the par value of	$ 373,000.00
(b)	The lien of the first and refunding mortgage of The South Bend Home Telephone Company, dated Jan. 15, 1915 and securing the payment of the First and Refunding Mortgage 6% Gold Bonds of said Company of even date, due January 15, 1935 of which there were outstanding bonds of the par value of.....	176,300.00
		$ 549,300.00

The necessary consent and approval of the Indiana Public Service Commission was granted by Order No. 5162 issued by that body on March 30, 1920.

*Red—Bold face type.

City's Exhibit No. 157-f

CENTRAL UNION TELEPHONE COMPANY

BALANCE SHEET

BEFORE AND AFTER SALE OF PLANT TO THE INDIANA BELL TELEPHONE COMPANY

MARCH 31, 1920

	Feb. 29, 1920†	Mar. 31, 1920‡
ASSETS		
Total Fixed Capital	$53,302,431.29	$37,537,646.92
Construction Work in Progress	366,723.72	429,698.57
Investment Securities	3,650,159.11	3,459,484.11
Advances to System Corporations for Construction, etc.	100,206.14	96,669.57
Miscellaneous Investments	88,426.22	57,538.85
Total Permanent and Long Term Investments	57,507,946.48	41,581,038.02
Cash and Deposits	160,571.46	189,434.20
Marketable Securities	4,151.42	4,151.42
Bills Receivable	74,657.35	71,932.35
Accounts Receivable	2,061,320.88	1,840,191.22
Materials and Supplies	1,336,464.91	1,139,844.47
Total Working Assets	3,637,166.02	3,245,553.66
Accrued Income Not Due	26,895.27	35,325.09
Sinking Fund Assets	81.97	.....
Prepayments	180,180.14	115,590.68
Unamortized Debt Discount and Expense	.....	.....
Other Deferred Debits	88,780.44	117,615.76
Total Deferred Debit Items	269,042.55	233,206.44
Total Assets	$61,441,050.32	$45,095,123.21

LIABILITIES

Capital Stock—Common	$ 5,450,927.50	$ 5,450,927.50
Capital Stock—Preferred	.....	.....
Capital Stock Installments	.....	.....
Total Capital Stock	5,450,927.50	5,450,927.50
Premiums on Capital Stock	.....	.....
Funded Debt	1,060,350.00	643,750.00
Advances from System Corporations for Construction, etc.	42,400,033.19	37,452,881.11
Total Long Term Debt	43,460,383.19	38,096,631.11
Bills Payable	41,250.00	41,250.00
Accounts Payable	16,123,135.22	2,861,702.57
Total Working Liabilities	16,164,385.22	2,902,952.57
Accrued Liabilities Not Due	784,840.89	774,951.68
Unextinguished Premium on Debt	.....	.....
Insurance and Casualty Reserves	47,809.11	49,257.12
Liability for Employees' Benefit Fund	177,062.97	173,596.70
Liability on Account of other Provident Funds	.....	.....
Other Deferred Credit Items	119,770.03	116,200.85
Total Deferred Credit Items	344,642.11	339,054.67
Reserve for Accrued Depreciation	9,529,684.74	7,111,104.93
Reserve for Amortization of Intangible Capital	58,580.24	45,477.63
Total Fixed Capital Reserve	9,588,264.98	7,156,582.56
Undivided Profits, Since Dec. 31 last	***298,931.18**	***510,467.40**
Appropriated Surplus	.....	.....
Corporate Surplus Unappropriated	***14,053,462.39**	***9,115,509.48**
Total Surplus and Undivided Profits	***14,352,393.57**	***9,625,976.88**
Total Liabilities	$61,441,050.32	$45,095,123.21

†Prior to sale.

‡Subsequent to sale. Proceeds of sale of property were paid to American Telephone and Telegraph Company in liquidation of Accounts Payable to that Company.

*Red—Bold face type.

CITY'S EXHIBIT 157-g.

In answer to questions,
Pages 2072 and 2073, Transcript of Record.*

On December 1, 1920, the Illinois Bell Telephone Company gave 3-year 5% notes aggregating $15,530,179.39 to the Central Union Telephone Company in payment for property in Illinois purchased on that date. These notes were held by the Central Union Telephone Company until June 28, 1923 when they were paid by the Illinois Bell Telephone Company from the proceeds of a $50,000,000 bond issue.

*Red—Bold face type.

City's Exhibit 157-h.

In answer to question.
Page 2072, Transcript of Record.*

CENTRAL UNION TELEPHONE COMPANY
SALE OF PLANT TO CHICAGO TELEPHONE COMPANY

Pursuant to an agreement made November 8, 1920, the Chicago Telephone Company purchased on December 1, 1920, all of the telephone plant including Materials and Supplies of the Central Union Telephone Company within the State of Illinois. The necessary consent and approval of the Illinois Public Utilities Commission was granted by Order 11,129 issued by that body on November 30, 1920.

The consideration for the plant in question was as follows:

For the telephone plant as it existed December 31, 1919		$15,500,000.00
For the actual cost of Net Additions to the Plant sold, from January 1, 1920 to December 1, 1920		557,846.05
		16,057,846.05

Certain portions of the property sold are subject to:

(a) A lien of a certain deed of trust made by the Eastern Illinois Independent Telephone Company to The American Trust and Savings Bank, Trustee dated Feb. 1, 1904 and securing bonds of the grantor to the amount of $500,000.00 due Feb. 1, 1924 of which there are now outstanding bonds of the par value of	$120,000.00	
(b) A lien of a certain deed of trust made by the Rockford Home Telephone Company to Royal Trust Company, Trustee, dated Feb. 1, 1902 securing bonds of the grantor to the amount of $200,000.00 due Feb. 1, 1922 of which there are outstanding bonds of the par value of	200,000.00	
(c) A lien of a certain deed of trust made by The Home Telephone Company of Champaign County to The Hibernian Banking Association of Chicago, Illinois dated April 1, 1906, securing bonds of the grantor to the amount of $200,000.00 due April 1, 1926 of which there are outstanding bonds of the par value of	200,000.00	
Accrued Interest on above items unpaid	7,666.66	
Less Total Funded Debt assumed by the Chicago Tel. Co.		527,666.66
Total amount of consideration of sale		$15,530,179.39

The Central Union Telephone Company received in payment of the above property sold, the following notes dated December 1, 1920 maturing December 1, 1923 and bearing interest at the rate of 5% per annum.

15 Notes at $1,000,000.00 each	$15,000,000.00
1 Note at $500,000.00	500,000.00
1 Note at $30,179.39	30,179.39
Total	$15,530,179.39

*Red—Bold face type.

City's Exhibit No. 157-h

CENTRAL UNION TELEPHONE COMPANY

BALANCE SHEET BEFORE AND AFTER SALE OF PLANT TO CHICAGO TELEPHONE COMPANY

DECEMBER 1, 1920

	Nov. 30, 1920†	Dec. 1, 1920‡
ASSETS		
Total Fixed Capital	$38,860,614.13	$23,711,122.90
Construction Work in Progress	590,193.84	506,878.78
Investment Securities	4,266,266.68	19,796,446.07
Advances to System Corporations for Construction, etc.	95,000.00	95,000.00
Miscellaneous Investments	16,650.20	9,100.00
Total Permanent and Long Term Investments	43,828,724.85	44,118,547.75
Cash and Deposits	196,812.32	196,812.32
Marketable Securities	3,651.42	3,651.42
Bills Receivable	210,847.64	210,847.64
Accounts Receivable	1,079,194.74	1,079,194.74
Materials and Supplies	1,148,037.70	815,272.73
Total Working Assets	2,638,543.82	2,305,778.85
Accrued Income Not Due	42,787.92	42,787.92
Sinking Fund Assets	.....	.....
Prepayments	118,100.14	118,100.14
Unamortized Debt Discount and Expense	.....	.....
Other Deferred Debits	146,341.91	146,341.91
Total Deferred Debit Items	264,442.05	264,442.05
Total Assets	$46,774,498.64	$46,731,556.57

LIABILITIES

Capital Stock—Common	$ 5,450,927.50	$ 5,450,927.50
Capital Stock—Preferred	.....	.....
Capital Stock Installments	.....	.....
Total Capital Stock	5,450,927.50	5,450,927.50
Premiums on Capital Stock	.....	.....
Funded Debt	690,000.00	170,000.00
Advances from System Corporations for Construction, etc.	37,894,828.14	37,894,828.14
Total Long Term Debt	38,584,828.14	38,064,828.14
Bills Payable	180,000.00	180,000.00
Accounts Payable	3,500,376.66	3,500,376.66
Total Working Liabilities	3,680,376.66	3,680,376.66
Accrued Liabilities Not Due	677,959.67	670,293.01
Unextinguished Premium on Debt	.....	.....
Insurance and Casualty Reserves	54,373.96	54,373.96
Liability for Employees' Benefit Fund	178,321.29	178,321.29
Liability on Account of other Provident Funds	.....	.....
Other Deferred Credit Items	61,189.44	60,659.90
Total Deferred Credit Items	293,884.69	293,355.15
Reserve for Accrued Depreciation	8,086,042.08	4,648,298.10
Reserve for Amortization of Intangible Capital	71,182.72	54,673.98
Total Fixed Capital Reserves	8,157,224.80	4,702,972.08
Undivided Profits, Since December 31 last	***943,518.15**	***943,518.15**
Appropriated Surplus	65,116.11	65,116.11
Corporate Surplus Unappropriated	***9,192,300.78**	***5,252,793.93**
Total Surplus and Undivided Profits	***10,070,702.82**	***6,131,195.97**
Total Liabilities	$46,774,498.64	$46,731,556.57

†Prior to date of sale.

‡Date sale effective, showing effect of sale only—not including effect of any other transactions on December 1, 1920.

*Red—Bold face type.

City's Exhibit 157-i.

In answer to question,
Page 2072, Transcript of Record.

CENTRAL UNION TELEPHONE COMPANY
SALE OF PLANT TO OHIO BELL TELEPHONE COMPANY

Pursuant to an agreement made October 8, 1920, The Ohio Bell Telephone Company purchased on December 31, 1920 all of the telephone property of the Central Union Telephone Company located within the State of Ohio, including bills and accounts receivable arising out of the Ohio property.

The necessary consent and approval of The Public Utilities Commission of Ohio was granted by Order No. 2117 issued by that body on December 23, 1920.

The consideration received for the telephone property and accounts receivable in question was as follows:

For the telephone plant as it existed December 31, 1919		$24,397,605.00
For the actual cost of Net Additions, to the Plant sold from January 1, 1920 to December 31, 1920		2,971,515.62
Bills and Accounts Receivable and certain other open accounts as shown on the books of the Central Union Telephone Company December 31, 1920		783,655.62
		28,152,776.24
Less:		
The amount of indebtedness on Commercial Building situated at 104 North 3rd St., Columbus, Ohio secured by First Mortgage of $150,000.00 running to the Prudential Insurance Company of America and Second Mortance Company of America	$150,000.00	
and Second Mortgage of	60,000.00	
running to The Commercial Improvement Company of Columbus, Ohio, which indebtedness was assumed by The Ohio Bell Telephone Company.		
Accrued interest on above unpaid	925.00	
Total debt of Central Union Telephone Company assumed by The Ohio Bell Telephone Company		210,925.00
Total consideration of sale		$27,941,851.24

CENTRAL UNION TELEPHONE COMPANY

BALANCE SHEET

BEFORE AND AFTER SALE OF PLANT TO THE OHIO BELL TELEPHONE COMPANY

DECEMBER 31, 1920

	Dec. 31, 1920†	Dec. 31, 1920‡
ASSETS		
Total Fixed Capital	$24,036,911.35	$ 9,069.23
Construction Work in Progress	.....	.....
Investment Securities	19,928,291.07	19,928,291.07
Advances to System Corporations for Construction, etc.	95,000.00	95,000.00
Miscellaneous Investments	9,100.00	.....
Total Permanent and Long Term Investments	44,069,302.42	20,032,360.30
Cash and Deposits	107,344.05	104,758.43
Marketable Securities	3,651.42	3,651.42
Bills Receivable	176,204.88	167,179.21
Accounts Receivable	1,143,304.24	403,540.50
Materials and Supplies	805,723.45	2,784.39
Total Working Assets	2,236,218.04	681,913.95
Accrued Income Not Due	102,293.26	98,120.68
Sinking Fund Assets	.....	.....
Prepayments	84,526.00	436.74
Unamortized Debt Discount and Expense	.....	.....
Other Deferred Debits	70,636.29	48,623.98
Total Deferred Debit Items	155,162.29	49,060.72
Total Assets	$46,562,976.01	$20,861,455.65

City's Exhibit No. 157-i

LIABILITIES

Capital Stock—Common	$ 5,450,927.50	$ 5,450,927.50
Capital Stock—Preferred	.....	.....
Capital Stock Installments	.....	.....
Total Capital Stock	5,450,927.50	5,450,927.50
Premiums on Capital Stock	.....	.....
Funded Debt	280,000.00	70,000.00
Advances from System Corporations for Construction, etc.	37,936,679.38	12,571,925.71
Total Long Term Debt	38,216,679.38	12,641,925.71
Bills Payable	156,500.00	156,500.00
Accounts Payable	3,833,226.11	1,204,066.16
Total Working Liabilities	3,989,726.11	1,360,566.16
Accrued Liabilities Not Due	597,971.56	597,042.81
Unextinguished Premium on Debt	.....	.....
Insurance and Casualty Reserves	53,550,22	53,550.22
Liability for Employees' Benefit Fund	180,000.00	180,000.00
Liability on Account of other Provident Funds	.....	.....
Other Deferred Credit Items	73,464.15	46,529.46
Total Deferred Credit Items	307,014.37	280,079.68
Reserve for Accrued Depreciation	4,712,844.65	123,552.53
Reserve for Amortization of Intangible Capital	4,692.13	.....
Total Fixed Capital Reserves	4,717,536.78	123,552.53
Undivided Profits, Since December 31 last	***1,025,466.42**	***1,025,466.42**
Appropriated Surplus	71,841.47	71,841.47
Corporate Surplus Unappropriated	***5,763,254.74**	1,360,986.21
Total Surplus and Undivided Profits	***6,716,879.69**	407,361.26
Total Liabilities	$46,562,976.01	$20,861,455.65

†Prior to sale, but including effect of all December transactions except entries resulting from sale.

‡Subsequent to sale. Proceeds of sale of property were paid to American Telephone and Telegraph Company in liquidation of Accounts Payable to, and Advances from, that Company.

*Red—Bold face type.

City's Exhibit 157-j.

In answer to question,
Page 2072, Transcript of Record.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY
LIQUIDATION OF CENTRAL UNION TELEPHONE COMPANY INDEBTEDNESS

	Tolls, Licensee Revenue, Interest and Miscellaneous	Advances on Open Account	Advances on Notes	Total
Dec. 31, 1919	$20,497,956.71	$.....	$35,620,000.00	$56,117,956.71
Jan. 1 to Dec. 31, 1920	2,433,197.69	1,921,471.31	.....	4,354,669.00
	$22,931,154.40	$ 1,921,471.31	$35,620,000.00	$60,472,625.71
Payments:				
Mar. 4, 1920	$ 450,000.00	$.....	$.....	$ 450,000.00
Mar. 13, 1920	100,000.00	.....	.....	100,000.00
Mar. 31, 1920	18,100,700.00	.....	.....	18,100,700.00
Apr. 7, 1920	.....	1,250,000.00	.....	1,250,000.00
Dec. 31, 1920	4,280,454.40	671,471.31	23,048,074.29	28,000,000.00
	$22,931,154.40	$ 1,921,471.31	$23,048,074.29	$47,900,700.00
Balance	$.....	$.....	$12,571,925.71	$12,571,925.71
From Feb. 3 to Dec. 31, 1921	.....	.....	1,580,000.00	1,580,000.00
Total	$.....	$.....	$14,151,925.71	$14,151,925.71
Payments:				
Feb. 26, 1921 to Dec. 8, 1922	$.....	$.....	$ 1,346,311.51	$ 1,346,311.51
June 28, 1923	.....	.....	12,805,614.20	12,805,614.20
Total	$.....	$.....	$14,151,925.71	$14,151,925.71
Balance	$.....	$.....	$.....	$.....